



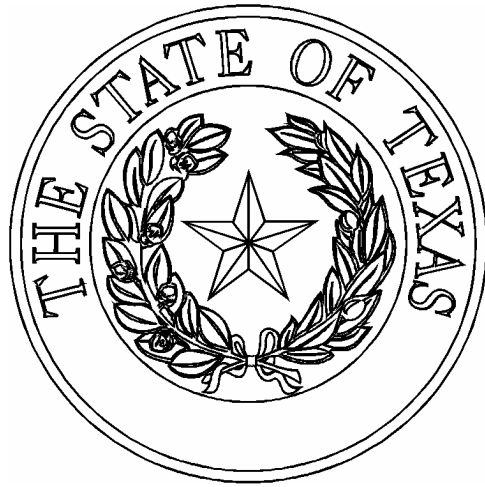
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING OF NOVEMBER 14, 2002

Michael Jones, Chair
C. Kent Conine, Vice-Chair

Beth Anderson, Member
Vidal Gonzalez, Member

Shadrick Bogany, Member
Norberto Salinas, Member



MISSION

***TEXAS DEPARTMENT OF HOUSING AND COMMUNITY
AFFAIRS***

***TO HELP TEXANS ACHIEVE AN IMPROVED QUALITY OF
LIFE THROUGH THE DEVELOPMENT OF BETTER
COMMUNITIES***

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

NOVEMBER 14, 2002

ROLL CALL

	Present	Absent
Jones, Michael, Chair	_____	_____
C. Kent Conine, Vice-Chair	_____	_____
Anderson, Beth, Member	_____	_____
Bogany, Shadrick, Member	_____	_____
Gonzalez, Vidal, Member	_____	_____
Salinas, Norberto, Member	_____	_____
Number Present	_____	
Number Absent		_____

_____, Presiding Officer

BOARD MEETING
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Capitol Extension Auditorium, 1400 Congress, Austin, Texas 78701
November 14, 2002 10:30 a.m.

A G E N D A

**CALL TO ORDER, ROLL CALL
CERTIFICATION OF QUORUM**

Michael Jones
Chair of Board

PUBLIC COMMENT

The Board will solicit Public Comment at the beginning of the meeting and will also provide for Public Comment on each agenda item after the presentation made by department staff and motions made by the Board.

The Board of the Texas Department of Housing and Community Affairs will meet to consider and possibly act on the following:

- | | | |
|--------|---|----------------|
| Item 1 | Presentation, Discussion and Possible Approval of Minutes of Board Meeting of October 10, 2002 | Michael Jones |
| Item 2 | Presentation, Discussion and Possible Approval of Report from The Audit Committee:
Status Report on Central Database Project
Status Report on LIHTC Construction Inspection Fees Receivable
Status Report on Prior Audit Issues | Vidal Gonzalez |
| Item 3 | Presentation, Discussion and Possible Approval of Board Policy on:
a) Resolution No. 02-056 - Separation of Board and Staff Responsibilities
b) Resolution No. 02-057 - Rulemaking Procedures and Public Input | Michael Jones |
| Item 4 | Presentation, Discussion and Possible Approval of Financial Items:
a) Approval of Resolution Approving Documents Relating to the Issuance of Residential Mortgage Revenue Bonds Series 2002A, Series 2002B, and Series 2002C and Other Related Matters
b) Approval of Investment Banking Team for the Sale of Residential Mortgage Revenue Bonds Series 2002A, Series 2002B and Series 2002C and Other Related Matters
c) Approval of Proposed Issuance of Multifamily Mortgage Revenue Bonds for Greenland Apartments, Houston, Texas In an Amount not to Exceed \$15,000,000 and Other Related Matters
d) Approval of Proposed Issuance of Multifamily Mortgage Revenue Bonds for Woodway Village, Austin, Texas in an Amount not to Exceed \$9,100,000 and Other Related Matters
e) Approval of Rehabilitation Loan in the Amount of \$1,000,000 to be Made for the Cedar Ridge Apartments, Dayton, Texas Under the Multifamily Housing Preservation Incentives Program and Other Related Matters | C. Kent Conine |

- Item 5 Presentation, Discussion and Possible Approval of Programmatic Items: Shadrick Bogany
- a) Approval of Payment Standards for Section 8 Program for Fiscal Year 2003
 - b) Approval of Final 2003 Underwriting, Market Analysis, Appraisal, and Environmental Site Assessment Rules and Guidelines

- Item 6 Presentation, Discussion and Possible Approval of Low Income Housing Tax Credit Items: Michael Jones

- a) Approval of the Final Qualified Allocation Plan and Rules for the Year 2003 Allocation Round for the Low Income Housing Tax Credit Program
- b) Approval of Authorization to the Executive Director to Allocate Any Returned Credits that are Returned After November 7, 2002 Without Returning for Board Approval
- c) Approval of Issuance of Determination Notices to Tax-Exempt Bond Transactions with TDHCA as the Issuer:
 - 02443 Greenland Park Apartments Houston, Texas
 - 02444 Woodway Village Apartments Austin, Texas
- d) Approval of Issuance of Determination Notices to Tax-Exempt Bond Transactions with Other Issuers:
 - 02445 Saddlebrook Apartments San Antonio, Texas
Bexar County HFC as Issuer
 - 02451 Gates of Capernum Apartments San Antonio, Texas
Bexar County HFC as Issuer
 - 02455 Sanger Trails Apartments Sanger, Texas
Denton County HFC as Issuer
- e) Approval of Requests for Extensions for Commencement of Construction for:
 - 01025 Residences of Diamond Hill Ft. Worth, Texas
 - 01069 Northstar Apartments Raymondville (Willacy County), Texas
 - 01073 Greens on Turtle Creek Port Arthur, Texas
 - 01144 Corinth Autumn Oaks Corinth, Texas
 - 01152 Parkway Senior Apartments Pasadena, Texas
 - 01162 Town Park Townhomes Houston, Texas
- f) Approval of Request for Extension of Closing of Construction Loan and Extension for Commencement of Construction for:
 - 01027 Springdale Estates Austin, Texas
- g) Approval of Request to Increase the Amount of Tax Credits for A Tax-Exempt Bond Transaction known as:
 - 00028 Southwest Trails Austin, Texas

REPORT ITEMS

- Executive Directors Report Edwina Carrington
 Manufactured Homes in Colonias

EXECUTIVE SESSION

- Litigation and Anticipated Litigation (Potential or Threatened under Sec. 551.071 and 551.103, Texas Government Code Litigation Exception) – (1) *Century Pacific Equity Corporation v. Texas Department of Housing and Community Affairs et al.* Cause No. GN-202219, in the District Court of Travis County, Texas, 53rd Judicial District
 Consultation with Attorney Pursuant to Sec. 551.071(2), Texas Government Code - (1) 501c(3) Multifamily Housing Mortgage Michael Jones

Revenue Bonds (Williams Run Apartments) Series 2000A;
(2) Lakeside Village Apartments, 2000 Low Income Housing
Tax Credit Extension

The Board may discuss any item listed on this agenda in Executive Session

OPEN SESSION

Michael Jones

Action in Open Session on Items Discussed in Executive Session

ADJOURN

Michael Jones
Chair of Board

To access this agenda and details on each agenda item in the board book, please visit our website at www.tdhca.state.tx.us or contact the Board Secretary, Delores Groneck, TDHCA, 507 Sabine, Austin, Texas 78701, 512-475-3934 and request the information.

Individuals who require auxiliary aids, services or translators for this meeting should contact Gina Esteves, ADA Responsible Employee, at 512-475-3943 or Relay Texas at 1-800-735-2989 at least two days before the meeting so that appropriate arrangements can be made.

AGENDA ITEM NO. 1

Board approval of the minutes of the meeting of October 10, 2002 is requested.

BOARD MEETING
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
City Hall, City Council Chambers, First Floor, 1201 Leopard Street
Corpus Christi, Texas 78401
October 10, 2002 9:15 am

Summary of Minutes

CALL TO ORDER, ROLL CALL
CERTIFICATION OF QUORUM

The Board Meeting of the Texas Department of Housing and Community Affairs of October 10, 2002 was called to order by Board Vice-Chair C. Kent Conine at 9:30 a.m. It was held at the City Hall, City Council Chambers, 1201 Leopard Street, Corpus Christi, Texas 78401. Roll call certified a quorum was present. Michael Jones was absent.

Members present:

C. Kent Conine -- Vice Chair
Vidal Gonzalez -- Member
Elizabeth Anderson -- Member
Norberto Salinas -- Member
Shad Bogany -- Member

Staff of the Texas Department of Housing and Community Affairs was also present.

Mr. Conine stated it was a pleasure for the Board to be in Corpus Christi and all Board members appreciated the city's fine hospitality.

PUBLIC COMMENT

The Board will solicit Public Comment at the beginning of the meeting and will also provide for Public Comment on each agenda item after the presentation made by the department staff and motions made by the Board.

Mr. Conine called for public comment and the following gave comments. Several speakers asked to speak at the time of the presentation of the agenda items.

Loyd Neal, Mayor, Corpus Christi, Texas

Mayor Neal thanked the Board and staff for coming to Corpus Christi to hold this meeting. He advised the Board that the city was available for any help the Board might need and his office was open to them.

Willie Fadden, Mayor, Ingleside, Texas

Mayor Fadden thanked the Board for all the help given to their city in bringing affordable housing to them. He asked the Board for help in drafting a guideline to bring slums up to acceptable housing.

Chris Wittmayer, General Counsel for TDHCA, stated he would be happy to assist the Mayor with his problem in getting statutory language for the city to adopt to enforce codes and address the situation.

ACTION ITEMS

(1) Presentation, Discussion and Possible Approval of Minutes of Board Meetings of August 29, 2002 and September 12, 2002
Motion made by Beth Anderson and seconded by Shad Bogany to approve the minutes of the meetings of August 29, 2002 and September 12, 2002 pending discussions.
Item was deferred after discussions.

(2) Presentation, Discussion and Possible Approval of Report from the Audit Committee on

Internal Audit Annual Report, Prior Audit Issues and LIHTC Inspection Fees

Mr. Gaines stated the Audit Committee met earlier and discussed three items which are: Status of Prior Audit Issues, Annual Internal Audit Report which is a required report of the division under the Texas Internal Auditing Act, and the status of the Low Income Housing Tax Credit inspection fees and the collection of those fees.

Mr. Gonzalez stated the Audit Committee had a good meeting and commended Mr. Gaines on the work he is doing on these projects.

(3) Presentation, Discussion and Possible Approval of Financial Items:

(a) Approval of Fourth Quarter Investment Report

Mr. Bill Dally, CFO, stated this report is TDHCA's Public Funds Investment Act Report for the period ending August 31, 2002. It reflects the transactions from May 31-August 31, 2002 and shows the carrying values, fair values of purchases and sales and maturities that occur in the portfolio. The portfolio decreased by \$27.7 million and it is now at \$1.2 billion. It is composed of 62% mortgage backed securities; 29% GICs and investment agreements; 4% repurchase agreements and 5% represents other investments. Mr. Dally stated when mortgage rates increase, the portfolio will also increase.

Motion made by Beth Anderson and seconded by Vidal Gonzalez to approve the Fourth Quarter Investment Report.

Passed Unanimously

Mr. Conine asked Mr. Dally to present agenda item no. 6 at this time.

(6) Presentation, Discussion and Possible Approval of Revised Legislative Appropriations Request

Mr. Dally stated this is report is the revised Legislative Appropriations Request which staff is asking for approval. During discussions at a previous meeting, Mr. Dally stated there may be changes in this LAR and the baseline request has been reduced as the Manufactured Housing rider requests needed to be moved to exceptional items. The LAR presented at this meeting was reduced by \$3.2 million with the following breakdown: GR by \$2.7 million; Earned Federal Funds by \$332,000 and Appropriated Receipts by \$481,000. There were two exceptional items added and these are the Manufactured Housing Consumer Claims for \$1,000,000 for each year; and another to allow TDHCA to add \$200,000 to Earned Federal Funds.

Motion made by Beth Anderson and seconded by Vidal Gonzalez to approve the Revised Legislative Appropriations Requested as presented.

Passed Unanimously

(b) Approval of Resolution No. 02-048 Authorizing the Increased Purchase Price Limits for Single Family Mortgage Revenue Bonds

Ms. Carrington stated the Texas State Affordable Housing Corporation conducted a study which documented the justification for an increase in average purchase price limits for all statistical areas in Texas for the Single Family Mortgage Revenue Bond programs. The purchase price limits had not been updated since 1994 and do not accurately reflect the average purchase price of homes in Texas. Staff is proposing to implement the purchase price limits set by TSAHC for current and future Single Family Mortgage Revenue Bond issues subject to three areas of the state where staff is proposing to use a lower purchase price limit.

Staff feels the three areas of the State that the limits are higher than what TDHCA would like to implement and those three areas are: Austin, Ft. Worth and San Antonio. Staff is proposing to implement a formula created which would either be the lower of the TSAHC study price or the product of the formula. The figures for non-targeted areas are:

<u>Area</u>	<u>TSAHC Limits</u>	<u>TDHCA Proposed Limits</u>
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Austin-San Marcos MSA	\$205,677	\$183,971
Ft. Worth	\$189,109	\$158,614
San Antonio	\$135,432	\$132,998

Motion made by Shad Bogany and seconded by Vidal Gonzalez to approve the purchase price limits as presented by staff.

Mr. Bogany asked if staff reviewed the MLS data in Austin, Ft. Worth and San Antonio.

Ms. Carrington stated staff is basing this recommendation on the IRS ruling. The department staff has not looked at the data used or data that was collected. She further stated staff looked at what the maximum amounts were in the areas, and staff considered what our mission is to serving low, very low and moderate income households. Ms. Carrington read part of the private letter ruling into the record:

“The Authority (TSAHC) submitted data concerning sales of new single of new single family residences for certain statistical areas and for all other areas for the 12-month period from January 1, 2001 to December 31, 2001. The Authority also submitted data concerning sales for existing single family residences for certain statistical areas and for all other areas of the same period”.

Amendment to the motion made by Beth Anderson and accepted by Shad Bogany and Vidal Gonzalez to adopt the TSAHC limits in total with approval of Resolution No. 02-048.
Passed Unanimously

(a) Approval of One or More Inducement Resolutions Declaring Intent to Issue Multifamily Housing Mortgage Revenue Bonds For projects Throughout the State of Texas and Authorizing the Filing of Related Applications for the Allocation of Private Activity Bonds with the Texas Bond Review Board for Program Year 2003 and Other Related Matters
Priority 1 Transactions

003-004	Magnolia Park	Ft. Worth	\$13,000,000
003-006	Fountain Circle	Austin	\$14,000,000
003-008	Green Pines II Apts.	Austin	\$11,000,000
003-014	Meadow Crossing	Mesquite	\$15,000,000
003-031	Sphinx @ Murdeaux	Dallas	\$13,400,000
003-033	Sphinx @ Oakwood	Dallas	\$13,700,000
003-034	Mesa Villas	Houston	\$15,000,000
003-035	Martindale Villas	Houston	\$10,700,000
003-044	Riverbend Apts.	Houston	\$10,700,000
003-046	Penninsula Apts.	Houston	\$10,700,000
003-049	Mesquite Seniors	Mesquite	\$11,000,000
003-050	100 May Develop.	Ft. Worth	\$14,000,000
003-051	51 Keeneland Deve.	Dallas	\$14,800,000
003-054	8100 Crowley dev.	Ft. Worth	\$14,400,000
003-057	Wylie Seniors	Wylie	\$ 8,200,000
003-058	Timber Oaks Apts.	Grand Prairie	\$10,900,000
003-059	Greystone Ridge Apts.	Dallas	\$14,000,000
003-067	Frisco Villas	Frisco	\$15,000,000
003-068	Primrose Houston	Lancaster	\$15,000,000
003-069	Primrose Villas	McKinney	\$15,000,000
003-070	Primrose @Hickory	Frisco	\$15,000,000
003-071	Primrose Broadway	McKinney	\$15,000,000
003-072	Hampton Villas	Arlington	\$15,000,000
003-073	Primrose Mesquite I	Mesquite	\$15,000,000
003-074	Mesquite Meadows	Mesquite	\$15,000,000
003-076	Primrose Langdon	Dallas	\$15,000,000

003-077	Arbor Bend Villaas	Ft. Worth	\$12,100,000
003-078	Primrose at Leg. Lane	Dallas	\$15,000,000
003-079	Parks at Riverplace	Ft. Worth	\$15,000,000
003-080	Stonebrook Villas	McKinney	\$15,000,000
003-099	West Virginia Apts.	Dallas	\$11,100,000
003-113	Johnny Morris Apts.	Austin	\$14,600,000

Priority 2 Transactions

003-001	Woodway Square	Austin	\$15,000,000
003-002	Sundown Village	Houston	\$13,300,000
003-003	Timber Ridge II	Houston	\$ 7,000,000
003-005	Derby House	Baytown	\$13,800,000
003-007	Surrey Station	Pflugerville	\$15,000,000
003-009	Meadow Crossing	Mesquite	\$15,000,000
003-010	Center Square Villas	Ft. Worth	\$15,000,000
003-011	Alsbury Place	Burleson	\$14,700,000
003-012	Hillery Garden Villas	Burleson	\$15,000,000
003-013	Freeway Villas	Ft. Worth	\$15,000,000
003-015	Silver Spring Apts.	Houston	\$15,000,000
003-017	The Vines	Cedar Park	\$15,000,000
003-018	Main Street Apts.	Baytown	\$15,000,000
003-019	Meadow Brook Apts.	Houston	\$15,000,000
003-020	Amber Ridge Apts.	Kyle	\$15,000,000
003-023	Wood Hollow Apts.	Cedar Park	\$15,000,000
003-025	Waterford Park Apts.	Houston	\$15,000,000
003-026	Lincoln Park Apts.	Arlington	\$15,000,000
003-027	Asbury Park Apts.	Houston	\$15,000,000
003-028	Addison Park Apts.	Arlington	\$15,000,000
003-029	Southpark Apts.	Austin	\$11,000,000
003-030	Vista Pointe & Quarry	Cedar Park	\$15,000,000
003-036	Eagle Glen Apts.	Humble	\$14,000,000
003-037	Albender West Apts.	Houston	\$14,000,000
003-038	Albender East Apts.	Houston	\$14,200,000
003-039	Kensington Apts.	Houston	\$14,800,000
003-040	Wittershaw Apts.	Houston	\$13,100,000
003-041	Alemeda Apts.	Houston	\$14,800,000
003-042	Fallbrook Belt 8 Apts.	Houston	\$13,100,000
003-043	Park 10 Barker Cyp.	Houston	\$15,000,000
003-045	Peppertree Apts.	Houston	\$15,000,000
003-047	The Park at Stee.	Houston	\$15,000,000
003-048	Coughtrey Estates	Houston	\$10,000,000
003-055	Ashford Point Dev.	Houston	\$15,000,000
003-060	Parkview Townhome	Arlington	\$15,000,000
003-061	Parkway Pointe	Houston	\$15,000,000
003-062	Parkside Village	Arlington	\$11,000,000
003-063	Brookglen Village	Houston	\$11,600,000
003-064	Bellford Village Apts.	Houston	\$13,700,000
003-065	Parkland Pointe II	Arlington	\$10,000,000
003-066	Pineview Townhomes	Houston	\$14,200,000
003-081	Yager Park Two Apts.	Austin	\$15,000,000
003-082	Stafford Apts.	Houston	\$15,000,000
003-083	Woodline Park Apts.	The Woodlands	\$15,000,000
003-084	Highland Apartments	Baytown	\$14,700,000
003-085	Brookglen Park Apts.	Houston	\$15,000,000
003-086	West Montgomery	Houston	\$15,000,000
003-087	Groeske Apts.	Houston	\$12,900,000

003-088	Goose Creek Apts.	Baytown	\$14,700,000
003-089	Humble Parkway Apts.	Houston	\$15,000,000
003-090	Cooks Lane Park	Ft. Worth	\$15,000,000
003-091	North Vista Apts.	Ft. Worth	\$15,000,000
003-092	Median Way Park	Arlington	\$14,900,000
003-093	McCart Park Apts.	Ft. Worth	\$10,900,000
03-094	Granbury Park Apts.	Ft. Worth	\$15,000,000
003-095	John West Park	Dallas	\$13,000,000
003-096	FM 1960 Apts.	Houston	\$15,000,000
003-097	Lake June Park Apts.	Dallas	\$15,000,000
003-098	Walters Apts.	Houston	\$15,000,000
003-100	Deerbrook One Apts.	Houston	\$15,000,000
003-101	Sycamore Creek	Ft. Worth	\$12,200,000
003-102	Cycamore Creek Two	Ft. Worth	\$12,200,000
003-103	Stuebner One	Houston	\$15,000,000
003-104	Stuebner Two Apts.	Houston	\$15,000,000
003-105	West Point One Apts.	Ft. Worth	\$15,000,000
003-106	West Point Two Apts.	Ft. Worth	\$14,000,000
003-107	West Point Three	Ft. Worth	\$ 9,300,000
003-108	Chapel Creek One	Ft. Worth	\$11,900,000
003-109	Chapel Creek Two	Ft. Worth	\$ 7,000,000
003-110	Parmer Park Apts.	Pflugerville	\$15,000,000
003-111	Yager One Apts.	Austin	\$15,000,000
003-112	Bagdad Park Apts.	Leander	\$15,000,000
003-114	Century Park Apts.	Austin	\$15,000,000

Mr. Robert Onion, Director of Multifamily Bond Finance, stated the department began the process with 114 applications but due to dropouts that number is now down to 103 applications for the \$1,427,800,000 lottery drawing. There are 30 Priority 1 applications and 73 priority 2 applications. For Primrose at Hickory, the location of the project should be changed to Hickory Street and Preston Road in Frisco, Collin County, Texas from Highway 67 and Pentagon Parkway in Dallas, Dallas County, Texas. On #003,044, Riverbend Apartments, the bond request should be \$12,000,000 and not \$10,700,000; on #003-046 Peninsula Apartments, the bond request should be \$12,000,000 and not \$10,700,000; #003-067. Frisco Villas has been pulled from consideration.

The date of the lottery for the Bond Review Board is October 31, 2002. On Primrose Villas and Primrose Broadway, the department has received verbal confirmation that these will be pulled but does not have anything in writing. On #003-048, Coughtrey Estates is located in Grand Prairie and not in Houston, Texas.

Motion made by Norberto Salinas and seconded by Shad Bogany to approve the inducement resolutions on the amended list.
Passed Unanimously

Mr. Conine stated for the record the following: "I'd like to speak editorially about the whole process, in that, again I would beg the legislature to make some changes to this process. This ping-pong-ball system just denies all intellectual capacity to put projects where they need to be put, and this agency and this board sometimes get tagged with projects put in particular areas that are left up to a ping-pong-ball lottery system, and I for one don't believe that's appropriate and it's hard to live with as a board member. That being said, it would be a deviation from what this board has done as a standard policy over the past years to start pulling these things before inducement resolutions are issued and they actually win the ping-pong-ball list, but I'd like to go on record, at least from this board member's perspective, and tell the projects' developers that are in the room and that may get a chance to read this transcript that by this board receiving some public comments already from certain city officials, by the number of projects, as a for instance, that are located in Austin in a market that we believe is overbuilt and that probably

doesn't need any more multifamily in it, that this board member is going to look particularly hard to the market studies, this board member is going to look particularly hard at the community interaction, and to blame it on a ping-pong-ball system and to try to do it just because that's the system in place, as we know it today, will not affect this board's complete discretion and scrubbing, if you will, of all these particular projects.

I don't want anyone to leave this room thinking that they will automatically have a deal if they happen to get lucky in the ping-pong-ball system because that's not going to be the case this time around. But I'm willing at this point to let the projects go forward just to see how the ping-pong lottery comes out.”

- a) **Approval of a Proposed Issuance of Multifamily Mortgage Revenue Bonds for:**
- 1) **Hickory Trace Apartments, Dallas, Texas, in an Amount not to Exceed \$11,920,000**
 - 2) **Green Crest Apartments, Houston, Texas in an Amount not to Exceed \$12,500,000**
 - 3) **Mark IV Apartments, (fka as Iron Wood Crossing) Ft. Worth, Texas in an Amount not to Exceed \$15,000,000**

Ms. Carrington stated staff is requesting approval of multifamily mortgage revenue bonds for three transactions. The first of these is Hickory Trace Apartments, No. 2002-057, Dallas, Texas with 180 units and the bond issue will be \$11,920,000 – Priority 1 transaction. There is no opposition to this transaction.

Motion made by Beth Anderson and seconded by Shad Bogany to approve Hickory Trace Apartments, Dallas, Texas for an amount of bonds not to \$11,920,000.
Passed Unanimously

Ms. Carrington stated Green Crest Apartments, No. 2002-439, Houston, Texas is being recommended for an amount not to exceed \$12,500,000. There were no attendees at the public hearing held on this project. It is a 192 multifamily complex with 7% interest rate and is a Priority 2 transaction.

Motion made by Shad Bogany and seconded by Beth Anderson to approve Green Crest Apartments for the issuance of multifamily bonds in an amount not to exceed \$12,500,000.
Passed Unanimously

Ms. Carrington stated Mark IV Apartments, No. 2002-075, is in Ft. Worth, Texas and staff is requesting issuance of multifamily bonds not to exceed \$15,000,000.

Additional public comment was taken at this time

Nicole Flores, Austin, Texas

Ms. Flores stated she was attending this meeting on behalf of Brisbane Development to speak on Mark IV development. Brisbane Development is a large developer, national developer that has a little over 18,000 units in their portfolio. Mark IV Apartments will be their tenth development in Texas. Ms. Flores thanked staff for their careful and considerate review of this project. She stated she has been critical in the past of the Underwriting Department and wanted to note specifically that there was a tremendous amount of communication back and forth between the Underwriting Department and the development team on this transaction in terms of just general questions and follow-up.

She stated it was unfortunate that Mr. Gouris was not at this meeting because she wanted to thank him for the changes in the Underwriting Department in terms of their communication on these transactions. Four percent deals are often very difficult in terms of the underwriting, there's a lot of questions, on a quick time frame, so that communication was very valuable. She stated the property is zoned C-3 under Fort Worth zoning regulations; that is a multifamily zoning designation that allows for up to 18 units of density on the site; it's a 26-acre site, 280 units. Because of contiguous single family and commercial land uses, a buffer has been provided on the site plan. When the TEFRA hearing was held on this particular property, it was scheduled just three days after the Fort Worth Housing Authority had had a

very large public meeting in the area. There was a very large contingent of concerned citizens who spoke in opposition. The developer was not aware that there was opposition and not had any time to meet with the neighborhood groups or work with them to educate them. Since the time of the TEFRA hearing, extensive outreach to both the Parkland neighborhood group and the Crossing at Fossil Creek neighborhood group has taken place.

There was also an initial letter and a follow-up letter from Representative Vicki Truitt, who is the representative for this area. A letter of support from Council Member Lane was also sent to the department.

Larry Stevens, Ft. Worth, Texas

Mr. Stevens stated the Brisbane Group has afforded them an opportunity to address some concerns with them. He was representing the neighborhood of the Crossing at Fossil Creek which he is president. He stated that Jim Lane who Nicole mentioned in her testimony has refused to meet with the neighborhood on this concern.

The available land in Tarrant County to develop in is approximately the size of Rhode Island. Some concerns are they want to see a positive growth in this area. The price of the homes in Northbrook, that's been there for about 20 years now, varies from \$30- to the mid \$50s. Recently some of the home prices, since the market has increased a little bit, have gone clear up into the low and mid-\$60,000.

He stated their concerns are security as there is a housing project or apartments that will be situated right next to the nearby park, which brings a concern and it becomes an area that you have to guard against quite a bit to be certain that it doesn't become a hangout and become a security problem. The location next to a park is a very big concern.

One concern is the renters that will be coming in this area will have no public transportation in this area and there are no plans for public transportation in this area. Eagle Mountain High School District is almost 15-20 minutes away by car, and there are no after-school buses or transportation to meet needs in that area. There are no nearby schools and this would stress a lot of the programs.

Motion made by Norberto Salinas and seconded by Shad Bogany to approve Mark IV Apartments for the issuance of multifamily bonds in the amount not to exceed \$15,000,000.
Passed Unanimously

**(5) Presentation, Discussion and Possible Approval of Low Income Housing Tax Credit Items:
a) Approval of Issuance of Four Percent (4%) Tax Credit Determination Notices With TDHCA as the Issuer for Tax Exempt Bond Transactions known as:**

**02-438 Hickory Trace Dallas, Texas
02-439 Green Crest Apartments Houston, Texas
02-440 Mark IV Fort Worth, Texas**

Ms. Carrington stated staff is recommending the approval of an allocation of the 4% tax credits for 02-438, Hickory Trace Apartments, 02-439, Green Crest Apartments; and Mark IV Apartments 02-440.

Motion made by Shad Bogany and seconded by Vidal Gonzalez to approve the 4% tax credits for Hickory Trace Apartments, Green Crest Apartments and Mark IV Apartments.
Passed Unanimously

b) Approval of Issuance of Four Percent (4%) Tax Credit Determination Notice With Other Issuer for Tax Exempt Bond Transaction known as:

**02-441 Hulen Bend Seniors Community Fort Worth, Texas
Tarrant County Housing Finance Corporation as Issuer**

Ms. Carrington stated this is \$02-441 Hulen Bend Seniors Community, Ft. Worth, Texas. The Tarrant County Housing Finance Corporation is the issuer. This is an elderly project and the recommended tax credit allocation is \$520,464.

Motion made by Beth Anderson and seconded by Shad Bogany to approve #02-441, Hulen Bend Seniors Community, Ft. Worth, Texas with the tax credit allocation of \$520,464.
Passed Unanimously

c) Approval of Request to Increase Amount of Tax Credits for Tax Exempt Bond Transactions:

99-04T Country Lane Seniors Community McKinney, Texas
99-13T Stone Brook Seniors San Marcos, Texas
02-413 Pleasant Valley Villas Austin, Texas

Ms. Carrington stated this is a request for increases in tax credit allocations on tax-exempt bonds and the 4% tax credit allocations. On 99-04T, Country Lane Seniors Community, the amount of increase is \$44,042.

Motion made by Norberto Salinas and seconded by Beth Anderson to approve the increase for 99-04T, Country Lane Seniors Community, McKinney, Texas in the amount of \$44,042.
Passed Unanimously

Ms. Carrington stated this request is for Stone Brook Seniors Community, San Marcos, Texas 99-13T and an additional amount of credits recommended is \$27,965.

Motion made by Shad Bogany and seconded by Vidal Gonzales to approve Stone Brook Seniors, San Marcos, Texas for additional credits in the amount of \$27,965.
Passed Unanimously

Ms. Carrington stated the request is for Pleasant Valley Villas, Austin, Texas, #02-413 for an additional amount of credits of \$262,448.

Motion made by Vidal Gonzalez and seconded by Norberto Salinas to approve the Pleasant Valley Villas, for an additional amount of credits of \$262,448.
Passed Unanimously

**(d) Approval of Extension Requests for:
Closing of Construction Loan for 01-152, Parkway Senior Apartments, Pasadena, Texas**

Ms. Carrington stated the request is for the Parkway Seniors Apartments, Pasadena, Texas and HUD has not processed their D-4 commitment and they are waiting on HUD for this commitment. Staff is recommending a new deadline of October 28, 2002.

Motion made by Vidal Gonzalez and seconded by Norberto Salinas to approve the extension to October 28, 2002 for Parkway Seniors Apartments in Pasadena. Texas.
Passed Unanimously

Additional public comment was taken at this time.

Bob Sherman, Northstar Housing Development, Dallas, Texas

Mr. Sherman stated they had a problem with a 221(d)(4) HUD loan. He stated on the 27th of September, well in advance of the date required to close, they attended a closing. There were 14 people present and the \$1.2 million equity did arrive from Simpson Housing late in the day. They had an irrevocable 221(d)(4) loan commitment from HUD that goes through November 8. All of the loan documents were signed at the closing and with a small army of attorneys everyone waited for one particular document which was a letter of credit to be provided by Simpson Housing that was rather difficult for them to develop. The loan has been closed, all is needed is the letter of credit, all the documents are signed, and HUD wants to do the deal as they have an irrevocable commitment.

Mr. Sherman requested an extension until the 25th of October just to make sure it doesn't happen again.

Closing of Construction Loan for 01-069, Northstar Apartments, Willacy County, Texas

Ms. Carrington stated Northstar Apartments has requested this extension and staff is recommending the extension to October 25, 2002.

Motion made by Shad Bogany and seconded by Vidal Gonzalez to approve the extension for North Star Apartments, Willacy County, Texas No. 01-069 to October 31, 2002.

Passed Unanimously

Closing to Commence Substantial Construction for 01-007, The Grand Texan Seniors, McKinney, Texas

Ms. Carrington stated staff is recommending an extension for Grand Texan Seniors, McKinney, Texas, #01-007 to February 2, 2003.

Passed Unanimously

Motion made by Beth Anderson and seconded by Norberto Salinas to approve the extension for Grand Texan Seniors in McKinney, Texas to February 2, 2003.

Passed Unanimously

e) Approval to Reallocate Returned Credits to 2002 Tax Credit Program Applicants for:

02-135 Lakeridge Apartments	\$762,112
02-131 Meadows of Oakhaven	\$407,934
02-040 Residences on Stillhouse Road	\$356,659
02-012 Highland Oaks Apartments	\$536,984
02-070 Woodview Apartments	\$219,938

Ms. Carrington stated this is a request for the allocation of 2002 credits to four transactions that were on the waiting list and a fifth transaction that was split between a 2002 allocation and a forward commitment for 2003. These transactions are: Lakeridge Apartments for \$762,112; Meadows of Oakhaven for \$407,934; Residences on Stillhouse Road for \$356,659; Highland Oaks Apartments for \$536,984; Woodview Apartments for \$219,938.

Lakeridge Apartments will have a partial allocation of 2002 credits and as soon as additional credits are returned, staff will complete the allocation.

Motion made by Shad Bogany and seconded by Vidal Gonzalez to approve the recommendation for the waiting list for 2002 for tax credits as recommended by staff.

Passed Unanimously

4) Presentation, Discussion and Possible Approval Proposed Amendment for HOME Program Regarding Biennial Funding

Ms. Carrington stated the board granted permission to staff to open a public comment period for the consolidation of 2002 and 2003 HOME funds. The amount of these funds is about \$78 million. TDHCA published this meeting in the Texas Register and had a public comment period for 30 days. Two public hearings were conducted and comments were to make sure TDHCA would be able to get the HOME funds out next year. She further stated the CHDO set aside awards will be presented to the board at the December meeting and the amount of these awards will be about \$8,387,000. Staff is asking for approval of the amendment to have biennial funding for this program.

Motion made by Beth Anderson and seconded by Norberto Salinas to approve the amendment for the HOME Program regarding biennial funding.

Passed Unanimously

At this time, Mr. Conine read the resolution #02-051 into the record and asked for approval for one of the bond transactions known as Woodline Park Apartments.

Motion made by Beth Anderson and seconded by Norberto Salinas to approve the resolution No.

02-051 for Woodline Park Apartments.
Passed Unanimously

At this time the Board returned to agenda item no. 1.

(1) Presentation, Discussion and Possible Approval of Minutes of Board Meetings of August 29, 2002 and September 12, 2002

Motion made by Shad Bogany and seconded by Beth Anderson to approve the minutes of the August 29, 2002 meeting with the change to note that Shad Bogany was present at the meeting.
Passed Unanimously

Motion made by Beth Anderson and seconded by Vidal Gonzalez to approve the minutes of the meeting of September 12, 2002.
Passed Unanimously

REPORT ITEMS

Executive Directors Report

Regional Allocation Formula/Affordable Housing Needs Score

Ms. Carrington stated staff is presenting this formula and is advising the Board that it will hold public hearings around the state in 11 regions on this proposed formula. She further stated that the affordable housing needs score does is provide TDHCA an objective measure of each region's affordable housing needs by which the funds are accordingly distributed.

TDHCA Reorganization

Ms. Carrington stated reorganization is still going on and there have been 180 baseline processes mapped in 22 different sections in 11 divisions and 150 major processes have been re-designed or created.

Mr. Conine requested that Ms. Carrington put names on the blank boxes as soon as she has selected all the directors, managers, etc. and she agreed to do that shortly.

PHA Advisory Group

Ms. Carrington stated TDHCA is forming an advisory group composed of housing authority members around the state and more information will be presented at later meetings.

Ms. Carrington stated she went to an ORCA Board Meeting in Big Spring and met with their Board members on the responsibility to be involved in the administration of the rural set aside for the LIHTC program. We are in the process of preparing a memorandum of understanding with ORCA on the joint administration of this program.

EXECUTIVE SESSION

Litigation and Anticipated Litigation (Potential or Threatened under Sec. 551.071 and 551.103, Texas Government Code Litigation Exception) – (1) Century Pacific Equity Corporation v. Texas Department of Housing and Community Affairs et al. Cause No. GN-202219, in the District Court of Travis County, Texas, 53rd Judicial District; (2) Sheltering Arms, Community Affairs Program Recipient; (3) Costa Verde, Ltd., Low Income Housing Tax Credit Application No. 02-041

Consultation with Attorney Pursuant to Sec. 551.071(2), Texas Government Code on 501c(3) Multifamily Housing Mortgage Revenue Bonds (Williams Run Apartments) Series 2000A

The Board may discuss any item listed on this agenda in Executive Session

Mr. Conine stated: "On this day, October 10, 2002 at a regular Board Meeting of the Texas Department of Housing and Community Affairs held in Corpus Christi, Texas, the Board of

Directors adjourned into a closed executive session, as evidenced by the following: The Board of Directors will began its executive session today, October 10, 2002 at 11:55 a.m. The subject matter of this executive session deliberation is as follows: (1) Litigation and Anticipated Litigation, Cause No. GN-202219, *Century Pacific Equity Corporation vs Texas Department of Housing and Community Affairs et al* in the 53rd Judicial District Court of Travis County; (2) Sheltering Arms Community Affairs Program Recipient; and Costa Verde, Ltd., Low Income Housing Tax Credit Application No. 02-041; (2) Consultation with Attorney, Pursuant to Section 551.071(2) Government Code on 501c(3) Multifamily Housing Mortgage Revenue Bonds (Williams Run Apartments) Series 2000A; (3) Discussion of any item listed on the Board meeting agenda of this date. At 11:55 a.m. the Board recessed into closed executive session.”

The Board returned to Open Session at 12:35 p.m.

OPEN SESSION

Action in Open Session on Items Discussed in Executive Session

Mr. Conine stated: “The Board of Directors has completed its executive session of the Texas Department of Housing and Community Affairs on October 10, 2002 at 12:35 p.m. The subject matter of this executive session deliberation was: Litigation and Anticipated Litigation Cause No. GN-202210, *Century Pacific Equity Corporation vs Texas Department of Housing and Community Affairs* 53rd Judicial Court of Travis County, Texas; Sheltering Arms Community Affairs Program Recipient; Action taken none; Coste Verde, Ltd., Low Income Housing Tax Credit Application No. 02-041; Action taken none; Consultation with Attorney, Pursuant to Section 551.071(2), Texas Government Code on 501c(3) Multifamily Housing Mortgage Revenue Bonds (Williams Run Apartments) Series 2000A; Action taken none; and Discussion of any item listed on the Board meeting agenda of this date; Action taken none. The Board of Directors has completed the Executive Session of the Texas Department of Housing and Community Affairs on October 10, 2002 at 12:35 p.m. I hereby certify that this agenda of the executive session of the Texas Department of Housing and Community Affairs was properly authorized pursuant to 551.103 of the Texas Government Code, posted at the Secretary of State’s office seven days prior to the meeting pursuant to 551.044 of the Texas Government Code, and that all members of the Board were present with the exception of Michael Jones, and that this is a true and correct record of the proceedings pursuant to the Texas Open Meetings Act, Chapter 551, Texas Government Code.” Signed by C. Kent Conine.

ADJOURN

Motion made by Beth Anderson and seconded by Shad Bogany to adjourn
Passed Unanimously

The meeting adjourned at 12:38 p.m.

Respectfully submitted,

Board Secretary

p:dg/bdminoct

AGENDA ITEM NO. 2

**AUDIT COMMITTEE MEETING
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Capitol Extension Auditorium, 1400 Congress, Austin, Texas 78701
November 14, 2002 8:30 a.m.**

AGENDA

**CALL TO ORDER, ROLL CALL
CERTIFICATION OF QUORUM**

Vidal Gonzalez
Committee Chair

PUBLIC COMMENT

The Audit Committee will solicit Public Comment at the beginning of the meeting and will also provide for Public Comment on each agenda item after the presentation made by department staff and motions made by the Committee.

The Audit Committee of the Board of the Texas Department of Housing and Community Affairs will meet to consider and possibly act on the following:

- | | | |
|--------|--|----------------|
| Item 1 | Presentation, Discussion and Possible Approval of Minutes of Audit Committee Meeting of October 10, 2002 | Vidal Gonzalez |
| Item 2 | Presentation and Discussion on: | David Gaines |
| | a) Status Report on Central Database Project | |
| | b) Status Report on LIHTC Construction Inspection Fees Receivable | |
| | c) Status Report on Prior Audit Issues | |

ADJOURN

Vidal Gonzalez
Committee Chair

To access this agenda and details on each agenda item, please visit our website at www.tdhca.state.tx.us or contact the Board Secretary, Delores Groneck, TDHCA, 507 Sabine, Austin, Texas 78701, 512-475-3934 and request the information.

Individuals who require auxiliary aids, services or translators for this meeting should contact Gina Esteves, ADA Responsible Employee, at 512-475-3943 or Relay Texas at 1-800-735-2989 at least two days before the meeting so that appropriate arrangements can be made.

AUDIT COMMITTEE MEETING
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
City Hall, City Council Chambers, First Floor, 1201 Leopard Street, Corpus Christi, Texas 78401
October 10, 2002 8:30 a.m.

Summary of Minutes

CALL TO ORDER, ROLL CALL
CERTIFICATION OF QUORUM

The Audit Committee Meeting of the Texas Department of Housing and Community Affairs of October 10, 2002 was called to order by Chair Vidal Gonzalez at 8:35 a.m. It was held at the City Hall, City Council Chambers, First Floor, 1201 Leopard Street, Corpus Christi, Texas. Roll call certified a quorum was present.

Members present:

Vidal Gonzalez -- Chair
Elizabeth Anderson - Member
Shad Bogany – Member

Staff of the Texas Department of Housing and Community Affairs was also present.

PUBLIC COMMENT

The Committee will solicit Public Comment at the beginning of the meeting and will also provide for Public Comment on each agenda item after the presentation made by the department staff and motions made by the Committee.

Mr. Gonzalez called for public comment and no one wished to give any comments.

REPORT ITEMS

(1) Presentation, Discussion and Possible Approval of Minutes of Audit Committee Meetings of August 8, 2002 and September 12, 2002

Motion made by Beth Anderson and seconded by Shad Bogany to approve the minutes of the Audit Committee Meetings of August 8, 2002 and September 12, 2002.
Passed Unanimously

(2) Presentation and Discussion on:
a) Status of Prior Audit Issues

Mr. David Gaines, Director of Internal Auditing, stated this report includes outstanding audit issues and the progress made over the last year in clearing these issues. On the twenty-four issues that were presented to the Committee in the past that were not resolved, five of those have now implemented, eighteen are in the process of implementation and one is delayed pending further action from HUD.

Mr. Gaines reported that on the issue of embezzlement by a sub-recipient employee, those funds have been reimbursed to the department. Six of these issues relate to the HUD/HOME monitoring issues and management is in the process of drafting a response to HUD and it is planned for release around October 25. On the remaining issues, management is making steady progress in resolving them.

b) Internal Audit Annual Report

Mr. Gaines stated this is a required report of the division under the Texas Internal Auditing Act and is to be distributed to the Governors Office, the LBB, the State Auditors Office and the Sunset Advisory Commission. This is also a required process pursuant to professional standards in the Texas Internal Auditing Act. The report contains a listing of audit findings and recommendations made during the year and the current status of each find and/or recommendation along with the annual audit plan for FY2002 along with the division's quality assurance review process. The organizational chart is included and also other activities the Audit division has been involved in for FY2002. Mr. Gaines will have the Audit Plan for FY2003 for the committee's review in the first quarter of 2003.

c) Status of Review of LIHTC Inspection Fees

Mr. Gaines stated staff is continuing to work on the collection of the LIHTC inspection fees. TDHCA has paid out \$810,700 in inspection fees since 1999 and has billed \$626,000. Of this amount \$597,000 has been reimbursed leaving a balance of \$213,000. An accounts receivable sub-ledger has been established in the accounting system and staff now invoices from this ledger, can see remaining balances, etc.

ADJOURN

Motion made by Shad Bogany and seconded by Beth Anderson to adjourn the meeting.
Passed Unanimously

The meeting adjourned at 9:00 a.m.

Respectfully submitted,

Board Secretary

THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Status of Central Database Project October 31, 2002

Overview

**(Business Goals and Benefits;
Major Milestones and Dates)**

Summary Plan/Status

**(Including Description of Modules and
Associated Capital Costs to Date)**

Supported by Detailed Project Plan/Status for:

- **Compliance Monitoring Tracking System (CMTS)
Functional Planning and Deployment / Industry Rollout**
- **Fund Allocation/Contract Module – Development**
- **Fund Allocation/Contract Module – Functional Planning and Deployment**

Status of Funds

**THE TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS**

**Status of
Central Database Project**

Overview
(Business Goals and Benefits;
Major Milestones and Dates)

October 31, 2002

TDHCA

Central Database Overview

October 31, 2002

Business Goals

- Improve the integrity and effectiveness of housing and community affairs programs administered by the Department.
- Improve the planning, monitoring, oversight and allocation of resources to the individual program areas.
- Improve the consistency and effectiveness in project and program monitoring.
- Improve the risk assessment of projects, developers, subrecipients and other interested parties involved in Department programs.
- Improve program service delivery.
- Eliminate redundancy of data in automated systems to ensure accuracy of reporting.
- Improve home ownership opportunities for low-income families.

Business Benefits

- Greater ability to assess the effectiveness of Department programs.
- Efficient use of existing resources and thereby reducing the cost of administering Department programs.
- Improved accountability of funds allocated to the individual programs, developments and final recipients.
- Ability to capture, analyze and compare historical data in relation to the goals and objectives of the programs.
- Consistency in the administration of Department programs.
- Consistency of communication and reporting of information throughout the Department.
- Ability to identify high risk parties of Department programs and develop a portfolio of violations to support Department decisions.
- Early detection of program weaknesses thus allowing program administrators to make the necessary adjustments to meet the overall goals of the program.
- Reduction in the number of noncompliant contractors through effective monitoring and follow up programs.

Development and Dates

Development major milestones include the following:

- Definition of requirements.
- Requirements review and approval by functional users.
- Design requirements.
- Design specification and screen review and approval by functional users impacted.
- Program coding.
- Technical team technical design, review, coding, testing and approval.
- Functional user acceptance testing and approval.

Development dates are derived as follows:

- Technical Project Plan – estimated based upon review with technical team and using our standardized software development methodology and past experience.
- Dates for future modules are also based on experience in developing functional requirements, system design specifications, and technical design specifications to date.

Functional Planning and Dates

Functional Planning and Deployment major milestones include the following:

- Communication - Strategy, audience, message, frequency.
- Data scrubbing, including populating and ensuring quality of data and information.
- Data migration - moving data to new system.
- Documentation.
- Testing, including development of test data, test cases, scenarios.
- User training.
- Deployment or actual roll-out – both internal and external.
- Go Live Date – date when the system is live and in use.

Functional Planning and Deployment dates are derived as follows:

- Initial meetings with key lead team members of the Functional User Team to devise a functional implementation plan template and apply it to the Fund Allocation/Contract module, resulting in a mid-April "go live date".
- Functional implementation dates for future modules are target dates that fall approximately 3 months after software delivery.

**THE TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS**

**Status of
Central Database Project**

**Summary Plan/Status
(Including Description of Modules and
Associated Capital Costs to Date)**

October 31, 2002

TDHCA Central Database Summary Plan/Status - October 31, 2002 (By Calendar Year)

ID	Task Name	Start	Finish	% Compl	00				2001				2002				2003				2004			
					3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4		
1	Comp'l. Monitoring & Tracking System (CMTS)	Thu 2/1/01	Mon 11/3/03	53%																				
2	Development	Thu 2/1/01	Tue 11/19/02	94%					2/1															
3	Functional Planning and Deployment	Thu 7/11/02	Wed 10/1/03	38%									7/11											
4	Industry Rollout	Mon 9/23/02	Mon 11/3/03	2%									9/23											
5																								
6	Fund Allocation/Contract Module	Fri 5/10/02	Wed 4/30/03	39%																				
7	Development	Fri 5/10/02	Fri 3/28/03	52%									5/10											
8	Functional Planning and Deployment	Mon 9/2/02	Wed 4/30/03	38%																				
72																								
73	* Application Module	Thu 8/1/02	Mon 10/20/03	7%																				
74	Development	Thu 8/1/02	Thu 7/17/03	14%									8/1											
75	Functional Planning and Deployment	Wed 10/23/02	Mon 10/20/03	0%									10/23											
76																								
77	* LIHTC Module	Mon 10/14/02	Fri 8/29/03	0%																				
78	Development	Mon 10/14/02	Wed 5/28/03	1%									10/14											
79	Functional Planning and Deployment	Tue 1/14/03	Fri 8/29/03	0%									1/14											
80																								
81	* Program Module	Mon 10/21/02	Wed 8/20/03	1%																				
82	Development	Mon 10/21/02	Wed 5/21/03	2%									10/21											
83	Functional Planning and Deployment	Wed 11/20/02	Wed 8/20/03	0%									11/20											
84																								
85	* Construction and Program Monitoring Module	Tue 10/29/02	Tue 12/9/03	0%																				
88																								
89	* Credit Underwriting & Cost Cert. Module	Fri 11/15/02	Fri 2/13/04	0%																				
92																								

Project: Central Database Date: Thu 11/7/02	Task		Rolled Up Task		External Tasks	
	Progress		Rolled Up Milestone		Project Summary	
	Milestone		Rolled Up Progress		Group By Summary	
	Summary		Split			

* If asterisked (*), the detailed plans identifying tasks and resources are pending. Accordingly, start and finish dates are very preliminary and will likely change as detailed plans are developed. 1
Thu 11/7/02

TDHCA Central Database Summary Plan/Status - October 31, 2002 (By Calendar Year)

ID	Task Name	Start	Finish	% Compl	00				2001				2002				2003				2004										
					3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4									
93	* Bond Finance Module	Wed 12/11/02	Fri 3/12/04	0%																											
96																															
97	* Section 8 Module	Fri 1/3/03	Fri 4/30/04	0%																											
100																															
101	* OCI Module	Mon 2/10/03	Wed 6/30/04	0%																											
102	Development	Mon 2/10/03	Fri 4/16/04	1%																											
103	Functional Planning and Deployment	Mon 4/21/03	Wed 6/30/04	0%																											
104																															
105	COMPLETED/ACCOMPLISHED	Thu 11/1/01	Wed 10/2/02	100%																											
106	Software Dev Environ Infrastructure & Arch Plng	Thu 11/1/01	Thu 2/28/02	100%																											
107	Main Menu and Login Process	Mon 12/3/01	Thu 1/31/02	100%																											
108	LIHTC Microsoft Outlook Contact Log Solution	Mon 12/3/01	Thu 1/31/02	100%																											
109	Housing Sponsor Report	Mon 12/3/01	Thu 1/31/02	100%																											
110	HRC Information Clearinghouse	Mon 12/3/01	Fri 6/28/02	100%																											
111	Data Migration and Population	Mon 12/3/01	Wed 10/2/02	100%																											
112	HRC Information Clearinghouse	Mon 12/3/01	Fri 5/31/02	100%																											
113	Housing Sponsor Report	Mon 12/3/01	Fri 1/4/02	100%																											
114	LIHTC Portfolio	Thu 3/28/02	Tue 4/23/02	100%																											
115	Multi-Family BOND Portfolio (Tax Bond)	Wed 5/1/02	Wed 10/2/02	100%																											
116	Software Architecture	Fri 3/1/02	Fri 6/28/02	100%																											
117	Housing Sponsor Report - Historical	Tue 3/19/02	Thu 5/16/02	100%																											

Project: Central Database Date: Thu 11/7/02	Task		Rolled Up Task		External Tasks	
	Progress		Rolled Up Milestone		Project Summary	
	Milestone		Rolled Up Progress		Group By Summary	
	Summary		Split			

* If asterisked (*), the detailed plans identifying tasks and resources are pending. Accordingly, start and finish dates are very preliminary and will likely change as detailed plans are developed. 2

Thu 11/7/02

TDHCA Central Database
Summary Plan/Status - October 31, 2002
(By Calendar Year)

1 Comp'l. Monitoring & Tracking System (CMTS)

CMTS was Phase I of the Central Database Project. The goal of Phase I was to develop a fully integrated system to address the compliance monitoring needs for all multifamily housing programs. The system was designed to provide full integration and reporting, provide automated compliance functions for the LIHTC, AHDP, HOME, HTF, and Tax Exempt Bond programs during the affordability period, allow remote property managers to access and update tenant information through the Internet, and improve productivity through the use of a sound business process design, a graphical user interface, and improved access to data.

Capital expenditures for AIMS Contract: \$309,038 (\$262,955 paid in FY 01; \$46,083 paid in FY 02)

Capital Expenditures for External Property Owner's Interface: \$8,375 (contract services)

Capital Expenditures for Functional Planning and Deployment: \$12,900 (contract services)

6 Fund Allocation/Contract Module

The Fund Allocation portion of this module will allow each of the program areas to distribute and track funds from the original source (HUD, General Revenue) to Program, Regions, Activities (SECO, Development, Owner Occupied etc.), Specific Setasides (CHDO, Special Needs etc.) Administration. The tracking of the funds includes source of the funds, expiration dates (Federal and State) for each of the source types to the contract level. Program Income, Deobligated Funds and Administration Funds will also be tracked at a detail level from source to final use. Balances will be automatically maintained in each of the funds.

A history of all transactions against any of the funds will be maintained. The transaction history will contain the type of transaction, date, amount, by whom and comments.

Contract and Draw portion of this module is inclusive of budgets and draws. This segment of the module will provide the ability for each of the program areas to set up a contract in the system, associate the contract to organizations and persons involved in the development and execution of the contract. Track the use of leveraging and matching funds for individual contracts. Provide the ability to create contract activities associated with the contract, create and maintain the budget including balances as funds get drawn, deobligated or refunded. Track the application of program income to contracts and automatically maintain the balances of deobligated funds to ensure deobligated funds are used immediately upon availability. Provide the ability to track the receipt of Program Income as well as tracking the program income proceeds at the contract level.

Provide the ability for the subrecipients to create and manage their own detail budget online. Management of the budget by the sub recipient will include the transfer of funds between budget items but not changes to the overall budget, which requires a formal amendment. Balances will be maintained by the system as funds are drawn, refunded etc.

Capital Expenditures: \$80,372 (contract services)

73 * Application Module

Provide the ability to create and store application guidelines, threshold information, scoring criteria and templates to be used in the application scoring process. The system will allow the applicant to enter and submit the application online and submit any supporting documentation via hardcopy and electronic means. Where possible, automated scoring will be invoked but regardless, all scoring will be performed in the system and summarized automatically. As application flows through the process, updates to fund balances are automatically updated to reflect applications that have not met minimum thresholds.

* If asterisked (*), the detailed plans identifying tasks and resources are pending. Accordingly, start and finish dates are very preliminary and will likely change as detailed plans are developed.

TDHCA Central Database
Summary Plan/Status - October 31, 2002
(By Calendar Year)

Capital Expenditures: \$3,000 (contract services)

77 * LIHTC Module

The tax credit program is the primary means of directing private capital towards the creation of affordable rental housing. The tax credits provide developers of low income rental housing with a benefit that is used to offset a portion of their federal tax liability in exchange for the production of affordable rental housing. The value associated with the tax credits allows residences in LIHTC developments to be leased to qualified families at below market rate rents.

In addition to the application, scoring, tracking and other features the LIHTC component of the Central Database will provide the ability to:

- track credit allotment to the state
- track the allotment of credits to the individual setasides and subsequent allocation to projects and their respective buildings
- track the allocation of credits to the properties
- identify applicable fraction for each of the buildings receiving tax credits
- identify the purpose of the allocation (acquisition, rehab, new construction)
- capture the necessary information to issue 8609s
- capture the necessary information to effectively manage the cost certification process
- automatically assign the applicable PV rate and provide the ability to lock in the rate
- track the tax credit from initial allocation, carryover to final issuance

81 * Program Module

Provide the ability to store online program level information. The information to be stored includes: Program name, the type of program (multi family or single family), program activities with each activity's specific strategies, targets (income targets, geographic, special needs, non-profit participation etc.) and requirements.

Provide the ability to map back to the original program targets the actual results as contracts are awarded to provide a visual summary of the actual results as they occur.

85 * Construction and Program Monitoring Module

This module will coordinate and manage the monitoring activities performed at projects, subrecipients, etc. The system will provide the ability to capture pertinent information regarding the monitoring activity and consolidate the results of all monitoring activities at the entity in a common place. This module will coordinate and manage the monitoring activities performed at projects, sub recipients etc. The system will provide the ability to capture pertinent information regarding the monitoring activity and consolidate the results of all monitoring activities at the entity in a common place.

89 * Credit Underwriting & Cost Cert. Module

This module will provide the ability to capture and track underwriting and cost certification details and apply pre-established thresholds and tolerances to determine eligibility or compliance with established standards.

93 * Bond Finance Module

The Bond Finance module will capture all relevant commercial paper, single family and multifamily bond data and information for retrieval and reporting purposes. The Bond Finance module will provide this data and information in a readily accessible manner through user defined reports to provide information to other state agencies. Financial concerns, such as rating agencies, bond insurers, investors, investment banks, etc. also will use these reports. The Bond Finance module will consolidate current report preparation processes, thereby increasing Bond Finance's efficiency and productivity with the issuance of new bonds and the management of outstanding bonds.

* If asterisked (*), the detailed plans identifying tasks and resources are pending. Accordingly, start and finish dates are very preliminary and will likely change as detailed plans are developed.

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97 * Section 8 Module

The Section 8 module will consist of 4 major components. They are Family Reports, Contracts, Payments and Contract Tracking. The Family Reporting System (i.e., application system) is modeled after HUD's automated Form 50058 application process which is used to collect, store and generate reports on families who participate in the Section 8 rental subsidy program. Once a family's application has been submitted and processed by HUD, it is ready to become a contract in TDHCA's Section 8 program. The Contract System is almost an exact mirror of the Family Reporting System except that it abstracts the information to a higher level and presents it in a more summarized form to agency users. A contract then provides the Section 8 Payment System with the information it needs to process payments for local operators, landlords and tenants. This system then feeds the information to Accounting's CSAS System which, in turn, gives accounting the information they need to produce their monthly checks for the aforementioned groups. Lastly, the Section 8 Contract Tracking System is used to help the program area "keep track" of which contracts have received their payments and/or have reimbursed the agency for the services rendered.

101 * OCI Module

The OCI module will be able to track its programs (Texas Bootstrap Loan Program, Contract for Deed Conversion Loan Programs, Builder Incentive Partnership Program, Contract for Deed Conversion Loan Guarantee Program, Colonia Self-Help Center Program and Colonia Consumer Education Programs) through the Database. This will enable the creation of various reports regarding the colonias and these programs. There will also be a capability to search on the Database for other funding activities in the colonias by other programs within the Agency.

105 COMPLETED/ACCOMPLISHED

Capital Expenditures Not Associated with Individual Milestones:

Java Training, \$7,640

Server Hardware, \$42,987

Software and Misc., \$4,620

106 Software Dev Environ Infrastructure & Arch Plng

The software development environment was restructured and a more refined process that accommodated both existing and new programming languages, databases and standards were put into place. This includes the development of a project charter, the creation of a detailed project plan, selection of a source code control tool, the addition of a modified QA process that involves more user participation, the creation of web and graphical user interface standards, Java coding standards, database naming convention standards, Java software development platform standard, and software change control, management and deployment process improvements.

Capital Expenditures: \$11,700 (contract services)

107 Main Menu and Login Process

The Central Database Main Menu for navigation through the system. The Login Process entailed developing the interface and preliminary security mechanisms for internal users. This also included development of a standardized interface stylesheet for use in the application.

Capital Expenditures: \$14,000 (contract services)

108 LIHTC Microsoft Outlook Contact Log Solution

Provided an immediate Microsoft Outlook solution to a SB322 item where oral (phone) or written communication can be logged for the LIHTC program. This is the short-term solution to the SB322 item. The longer-term solution will be in the form of the LIHTC Contact Log.

109 Housing Sponsor Report

The Housing Sponsor Report is used by the property owners and property managers to report property and unit information into the Central Database. The Housing

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Sponsor Report is required to be submitted to TDHCA on an annual basis for any properties where program participation was involved.

Capital Expenditures: \$650 (contract services)

110 HRC Information Clearinghouse

The Housing Resource Center Information Clearinghouse provides the citizens of Texas easy access to information on homebuyer assistance, rental housing assistance, home repair, and other community services throughout the state. A brief description of several programs offered by TDHCA and other state and federal programs, including hyperlinks, is also available.

Capital Expenditures: \$51,034 (contract services)

111 Data Migration and Population

Capital Expenditures: \$22,885 (contract services)

116 Software Architecture

The software infrastructure required for current and future projects which included the design, technical design and software development of data access routines, object model development and user interface framework.

Capital Expenditures: \$18,750 (contract services)

117 Housing Sponsor Report - Historical

The Housing Sponsor Report - Historical information is used to query for property and unit information that has been provided in prior Housing Sponsor Report reporting years. The Housing Sponsor Report is required to be submitted to TDHCA on an annual basis for any properties where program participation was involved. This portion of the system is specific to historical information as previously reported by prior Housing Sponsor Reports entered by property owners and property managers.

* If asterisked (*), the detailed plans identifying tasks and resources are pending. Accordingly, start and finish dates are very preliminary and will likely change as detailed plans are developed.




**THE TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS**












**Status of
Central Database Project**

Compliance Monitoring and Tracking System

October 31, 2002

TDHCA Central Database - Project Plan/Status
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ID	Task Name	Start	Finish	%	Q4 '02				Q1 '03			Q2 '03			Q3 '03			Q4 '03		
					9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12
1	   CMTS Development	Thu 2/1/01	Tue 11/19/02	94%	█	█	█	█												
2	CMTS Functional Planning and Deployment	Thu 7/11/02	Wed 10/1/03	38%	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█
682	CMTS Industry Rollout	Mon 9/23/02	Mon 11/3/03	11%	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█















Project: Central Database Date: Thu 11/7/02	Task		Rolled Up Task		External Tasks	
	Progress		Rolled Up Milestone		Project Summary	
	Milestone		Rolled Up Progress		Group By Summary	
	Summary		Split			












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1 CMTS Development

The detailed technical plan relating to CMTS is included in other documentation. The technical development was a mutual effort between TDHCA's IS Division and a third party consultant. The remaining technical work relates to "have to" enhancements and bug fixes that were identified in connection with User Acceptance Tests. See the CMTS Functional Planning and Deployment detailed plan, *CMTS Application Issues*, for details.

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ID	Task Name	Start	Finish	%	Q4 '02				Q1 '03			Q2 '03			Q3 '03			Q4 '03				
					9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12		
1	  CMTS Development	Thu 2/1/01	Tue 11/19/02	94%																		
2	CMTS Functional Planning and Deployment	Thu 7/11/02	Wed 10/1/03	38%																		
3	 Transition Plan	Mon 9/23/02	Fri 11/1/02	100%																		
10	CMTS Application issues	Mon 9/23/02	Tue 11/19/02	76%																		
11	 Identify Programming issues	Mon 9/23/02	Mon 9/23/02	100%					James roper													
12	 Document Programming issues	Tue 9/24/02	Tue 9/24/02	100%					James roper													
13	 IS Programming Estimate	Tue 10/1/02	Thu 10/10/02	100%					IS Department													
14	Enhancements & Bug Fixes	Mon 9/30/02	Mon 11/18/02	85%																		
15	Property Profile Junction Table # 311	Fri 10/11/02	Fri 10/11/02	80%					IS Department													
16	 Edit units with no BIN's # 324	Mon 10/14/02	Mon 10/14/02	100%					IS Department													
17	Property detail edit bug # 308	Tue 10/15/02	Tue 10/15/02	10%					IS Department													
18	 Inputing findings Manually #274	Mon 9/30/02	Mon 9/30/02	100%					IS Department													
19	 Edit non-standard finding is adding records # 313	Mon 9/30/02	Tue 10/1/02	100%					IS Department													
20	Edit of standard finding not working # 312	Tue 10/1/02	Tue 10/1/02	50%					IS Department													
21	Adding Person and Organization types #306	Wed 10/2/02	Wed 10/2/02	10%					IS Department													
22	 Finalize and test outstanding reports #259	Wed 10/2/02	Mon 10/7/02	20%					IS Department, James roper													
23	 Minimum Set Aside Not Working #197 / 251 / 232	Tue 10/8/02	Tue 10/8/02	100%					IS Department													
24	 Bond ET Income Calculation #297	Mon 9/30/02	Fri 10/4/02	100%					Raju													
25	 Create testing and report for actual income designations #314	Mon 9/30/02	Fri 10/4/02	100%					Raju													
26	 Various Totaling from the summary table #315	Mon 9/30/02	Fri 10/4/02	100%					Raju													

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	Progress		Rolled Up Milestone		Project Summary	
	Milestone		Rolled Up Progress		Group By Summary	
	Summary		Split			












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ID	Task Name	Start	Finish	%	Q4 '02				Q1 '03			Q2 '03			Q3 '03			Q4 '03		
					9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12
27	Combining Reviews in Review Group #154	Mon 9/30/02	Fri 10/4/02	100%		Raju														
28	Population of next onsite review #316	Mon 9/30/02	Fri 10/4/02	100%		Raju														
29	Testing against mulitpe tiers #317	Mon 9/30/02	Fri 10/4/02	100%		Raju														
30	Special Needs Testing #318	Mon 9/30/02	Fri 10/4/02	100%		Raju														
31	Scoring of reviews #319	Mon 9/30/02	Fri 10/4/02	100%		Raju														
32	Affordability period #118 / 226 / 250	Mon 9/30/02	Fri 10/4/02	100%		Raju														
33	One time onsite reviews #294	Mon 9/30/02	Fri 10/4/02	100%		Raju														
34	Generate automatic 8823 #276	Mon 9/30/02	Fri 10/4/02	100%		Raju														
35	Type Values Verification #151	Tue 10/8/02	Tue 10/8/02	100%		James roper														
36	Entering Supportive Services #193	Wed 10/9/02	Wed 10/9/02	100%		IS Department														
37	Error when entering a fee profile #267	Thu 10/10/02	Thu 10/10/02	100%		IS Department														
38	Populate Building # and BIN findings screen #148	Wed 10/9/02	Wed 10/9/02	100%		IS Department														
39	Remove the add button for review groups #310	Wed 10/9/02	Thu 10/10/02	100%		IS Department														
40	Accessibility types for external and internal screens should match #278	Thu 10/10/02	Fri 10/11/02	100%		IS Department														
41	Recertification Designation for external screens #249	Fri 10/11/02	Fri 10/11/02	100%		IS Department														
42	Cron job for Fee Profile #322	Fri 10/11/02	Mon 10/14/02	10%		IS Department														
43	Cron job for Owners cert Profile #322	Mon 10/14/02	Mon 10/14/02	10%		IS Department														
44	Cron job for LIHTC building #322	Tue 10/15/02	Tue 10/15/02	10%		IS Department														
45	Cron job for reports due #322	Tue 10/15/02	Wed 10/16/02	10%		IS Department														
46	Get Household info from USR table #180	Wed 10/16/02	Thu 10/17/02	100%		IS Department														

Project: Central Database Date: Thu 11/7/02	Task		Rolled Up Task		External Tasks	
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ID	Task Name	Start	Finish	%	Q4 '02				Q1 '03			Q2 '03			Q3 '03			Q4 '03		
					9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12
47	Household screen summary #231	Thu 10/17/02	Thu 10/17/02	100%																
48	Standardize pull down menus external screens #248	Fri 10/18/02	Fri 10/18/02	10%																
49	Household designation for layered property #161	Fri 10/18/02	Mon 10/21/02	100%																
50	Popup for non-secure entry external screens #242	Mon 10/28/02	Tue 10/29/02	100%																
51	Force Move Out Date End User Screen #223 / 224 / 239	Tue 10/22/02	Tue 10/22/02	100%																
52	Recert designation enhancement #249	Wed 10/23/02	Wed 10/23/02	100%																
53	Blank Space input ethnic Backgrounds #222 / 240	Thu 10/31/02	Fri 11/1/02	100%																
54	Submit Date No More than 6 months past and no future dates #271 / 238	Fri 11/1/02	Fri 11/1/02	100%																
55	Apostrophy in the Property name External screens # 206	Fri 11/1/02	Mon 11/4/02	100%																
56	Null value in required deposits #212	Mon 11/4/02	Mon 11/4/02	100%																
57	XML markup issues #270	Mon 11/4/02	Tue 11/5/02	10%																
58	Java Error on search for netscape #210 / 213	Tue 11/5/02	Tue 11/5/02	10%																
59	Editing Accessability in Netscape #211	Tue 11/5/02	Wed 11/6/02	10%																
60	Unit type problem external screen #293	Wed 11/6/02	Thu 11/7/02	100%																
61	Last name on household screen #247	Thu 11/7/02	Thu 11/7/02	100%																
62	Logout goes to dead end #215	Thu 11/7/02	Fri 11/8/02	10%																
63	Edit link on the organization / person relationship #225	Fri 11/8/02	Mon 11/11/02	100%																
64	Rent election default to bedroom size #227	Mon 11/11/02	Tue 11/12/02	10%																
65	Building 8609 Affordability Period #321	Tue 11/12/02	Wed 11/13/02	10%																
66	Adding amenity error with more than one amenity #104	Wed 11/13/02	Wed 11/13/02	100%																

Project: Central Database Date: Thu 11/7/02	Task		Rolled Up Task		External Tasks	
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					9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12
67	Accessibility types need to be updated # 182	Thu 11/14/02	Thu 11/14/02	10%																
68	Search for accessibility for the World Wide Web #323	Fri 11/15/02	Fri 11/15/02	10%																
69	140 % of 50 % AMI #320	Fri 11/15/02	Mon 11/18/02	10%																
70	Technical support & Help Desk Plan	Fri 11/1/02	Tue 11/19/02	0%																
71	Define Support Strategy	Fri 11/1/02	Tue 11/19/02	0%																
72	Identify technical support alternatives	Fri 11/1/02	Fri 11/1/02	0%																
73	Identify end user functional support alternatives	Mon 11/4/02	Mon 11/4/02	0%																
74	Identify Risks and dependencies	Tue 11/5/02	Tue 11/5/02	0%																
75	Identify critical success factors	Wed 11/6/02	Wed 11/6/02	0%																
76	Document support alternatives	Thu 11/7/02	Thu 11/7/02	0%																
77	Review and select	Fri 11/8/02	Fri 11/8/02	0%																
78	Document Support Strategy	Mon 11/11/02	Mon 11/11/02	0%																
79	Prepare for technical support and help desk deployment	Tue 11/12/02	Tue 11/19/02	0%																
80	Define Roles and Responsibilities	Tue 11/12/02	Tue 11/12/02	0%																
81	Document policies and procedures	Wed 11/13/02	Wed 11/13/02	0%																
82	Define technical support and help desk process	Thu 11/14/02	Thu 11/14/02	0%																
83	Document Strategy and roles and approve	Fri 11/15/02	Fri 11/15/02	0%																
84	Perform training	Mon 11/18/02	Mon 11/18/02	0%																
85	Impliment help desk and technical support processes	Tue 11/19/02	Tue 11/19/02	0%																
86	CMTS Data Migration and Data Scrubbing Bond	Mon 9/23/02	Thu 11/28/02	85%																

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ID	Task Name	Start	Finish	%	Q4 '02				Q1 '03			Q2 '03			Q3 '03			Q4 '03				
					9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12		
87	Bond Data Migration	Mon 9/23/02	Mon 9/23/02	100%	Robert Flores																	
88	Property Module Cleanup	Mon 10/7/02	Thu 11/28/02	85%	[Progress Bar]																	
89	Duplicate Records	Mon 10/7/02	Wed 11/13/02	96%	[Progress Bar]																	
90	Select strategy	Mon 10/7/02	Tue 11/12/02	100%	[Progress Bar]																	
91	perform preliminary assessment of duplicate	Mon 10/7/02	Thu 10/31/02	100%	James roper																	
92	Develop strategy to Eliminate Duplicate Records	Thu 10/31/02	Fri 11/1/02	100%	James roper																	
93	Identify alternatives to address duplicate records	Fri 11/1/02	Mon 11/4/02	100%	James,Sara,Nancy																	
94	Identify IS dependencies	Mon 11/4/02	Tue 11/5/02	100%	James,Sara,Nancy																	
95	Estimate IS effort	Tue 11/5/02	Wed 11/6/02	100%	IS Department																	
96	Identify resource dependencies	Wed 11/6/02	Thu 11/7/02	100%	IS Department																	
97	Estimate resource effort	Thu 11/7/02	Fri 11/8/02	100%	IS Department																	
98	Review alternatives with management	Fri 11/8/02	Mon 11/11/02	100%	James,Sara,Nancy																	
99	Select Alternative	Mon 11/11/02	Tue 11/12/02	100%	Sara,Suzanne																	
100	Prepare for execution of Plan	Tue 11/12/02	Wed 11/13/02	60%	[Progress Bar]																	
101	Preform duplicate record cleanup	Tue 11/12/02	Wed 11/13/02	60%	IS Department,James																	
102	Data Integrity	Wed 11/13/02	Thu 11/28/02	75%	[Progress Bar]																	
103	Select Strategy	Wed 11/13/02	Mon 11/25/02	100%	[Progress Bar]																	
104	Perform preliminary assessment of data integrity	Wed 11/13/02	Thu 11/14/02	100%	James roper																	
105	Identify alternatives to address data integrity	Thu 11/14/02	Fri 11/15/02	100%	James roper																	
106	Identify IS dependencies	Fri 11/15/02	Mon 11/18/02	100%	James roper																	

Project: Central Database Date: Thu 11/7/02	Task		Rolled Up Task		External Tasks	
	Progress		Rolled Up Milestone		Project Summary	
	Milestone		Rolled Up Progress		Group By Summary	
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ID	Task Name	Start	Finish	%	Q4 '02				Q1 '03			Q2 '03			Q3 '03			Q4 '03					
					9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12			
107	Estimate IS effort	Mon 11/18/02	Tue 11/19/02	100%																			
108	Identify recourse dependencies	Tue 11/19/02	Wed 11/20/02	100%																			
109	Estimate resource effort	Wed 11/20/02	Thu 11/21/02	100%																			
110	Review alternatives with management	Thu 11/21/02	Fri 11/22/02	100%																			
111	Select Alternative	Fri 11/22/02	Mon 11/25/02	100%																			
112	Prepare for execution of plan	Mon 11/25/02	Thu 11/28/02	7%																			
113	Develop guidelines	Mon 11/25/02	Tue 11/26/02	0%																			
114	Develop reports and tools to preform tasks	Tue 11/26/02	Wed 11/27/02	20%																			
115	perform data integrity cleanup	Wed 11/27/02	Thu 11/28/02	0%																			
116	Organization Module Cleanup	Mon 10/7/02	Mon 11/4/02	85%																			
117	Duplicate Records	Mon 10/7/02	Fri 10/18/02	92%																			
130	Data Integrity	Mon 10/21/02	Mon 11/4/02	78%																			
144	Person Data Cleanup	Mon 10/7/02	Mon 11/4/02	85%																			
172	Address Data Cleanup	Mon 10/7/02	Mon 11/4/02	85%																			
200	CMTS Data Migration and Data Scrubbing HOME	Mon 10/7/02	Tue 11/26/02	87%																			
201	Property Module Cleanup	Mon 10/7/02	Tue 11/26/02	81%																			
229	Organization Module Cleanup	Mon 10/7/02	Mon 11/4/02	81%																			
257	Person Data Cleanup	Mon 10/7/02	Mon 11/4/02	86%																			
285	Address Data Cleanup	Mon 10/7/02	Mon 11/4/02	100%																			
313	CMTS Data Migration and Data Scrubbing HTF	Mon 10/7/02	Tue 11/26/02	88%																			

Project: Central Database Date: Thu 11/7/02	Task		Rolled Up Task		External Tasks	
	Progress		Rolled Up Milestone		Project Summary	
	Milestone		Rolled Up Progress		Group By Summary	
	Summary		Split			

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ID	Task Name	Start	Finish	%	Q4 '02				Q1 '03			Q2 '03			Q3 '03			Q4 '03		
					9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12
426	CMTS Data Migration and Data Scrubbing AHDP	Mon 10/7/02	Tue 11/26/02	83%	[Progress bar]															
539	CMTS Data Migration and Data Scrubbing LIHTC	Mon 10/7/02	Tue 11/26/02	36%	[Progress bar]															
653	Data Population for Missing Data	Mon 10/7/02	Wed 10/1/03	10%	[Progress bar]															
654	Develop Strategy for Data Gathering and Input	Mon 10/7/02	Fri 12/27/02	100%	[Completed bar]				Sara,Nancy,Suzanne,James											
655	Develop Draft Data Gathering tool	Mon 10/7/02	Tue 10/8/02	100%	[Completed bar]				Wendy Quacembush,James roper											
656	Refine Data Gathering tool	Mon 10/7/02	Mon 11/25/02	100%	[Completed bar]				Wendy Quacembush,James roper											
657	Perform Data Gathering	Tue 11/26/02	Wed 10/1/03	0%	[Progress bar]															
658	Data gathering for HTF	Tue 11/26/02	Mon 2/17/03	0%	[Task bar] Jo Taylor															
659	Data gathering for Home	Tue 11/26/02	Mon 2/17/03	0%	[Task bar] Jennifer,Ramona,Lora															
660	Data gathering for Bond	Tue 11/26/02	Mon 2/17/03	0%	[Task bar] Dorris,Bobbie,Melinda															
661	Data gathering for LIHTC	Tue 11/26/02	Wed 10/1/03	0%	[Task bar] Compliance															
662	Input Data into system	Mon 10/7/02	Wed 10/1/03	0%	[Progress bar]															
663	Input Data for HTF	Tue 2/18/03	Mon 5/12/03	0%	[Task bar] Jo Taylor															
664	Input Data for Home	Tue 2/18/03	Mon 5/12/03	0%	[Task bar] Jennifer,Ramona,Lora															
665	Input Data for Bond	Tue 2/18/03	Mon 5/12/03	0%	[Task bar] Dorris,Bobbie,Melinda															
666	Input Data for LIHTC	Mon 10/7/02	Wed 10/1/03	0%	[Task bar] Compliance															
667	User Procedures and Documentation	Fri 11/1/02	Thu 12/19/02	23%	[Progress bar]															
668	Define Standards for preparing procedures	Fri 11/1/02	Thu 11/7/02	10%	[Task bar] James roper,Nancy Dean,IS															
669	Prepare Procedures Documentation	Fri 11/8/02	Thu 11/28/02	50%	[Task bar] James roper,Nancy Dean,IS															
670	Review and Approval	Fri 11/29/02	Thu 12/19/02	0%	[Task bar] Nancy,Suzanne,Sara															

Project: Central Database Date: Thu 11/7/02	Task	[Blue hatched bar]	Rolled Up Task	[Blue hatched bar]	External Tasks	[Grey bar]
	Progress	[Black bar]	Rolled Up Milestone	[Diamond]	Project Summary	[Grey bar]
	Milestone	[Black diamond]	Rolled Up Progress	[Black bar]	Group By Summary	[Grey bar]
	Summary	[Black bar]	Split	[Dotted line]		

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					9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12		
671	User Training	Fri 11/15/02	Mon 12/23/02	22%																		
672	Deveop Training Program	Fri 11/15/02	Fri 11/15/02	40%																		
673	Identify Training Requirements	Tue 11/19/02	Tue 11/19/02	20%																		
674	Develop Written User Manual	Wed 11/20/02	Tue 12/3/02	50%																		
675	Prepare Training Materials / Curriculum	Wed 12/4/02	Tue 12/17/02	0%																		
676	Secure Training Facilities	Wed 12/18/02	Thu 12/19/02	0%																		
677	Rehearse Training	Fri 12/20/02	Fri 12/20/02	0%																		
678	Conduct Training	Mon 12/23/02	Mon 12/23/02	20%																		
679	User Testing	Thu 7/11/02	Mon 12/23/02	93%																		
680	Pilot Testing	Thu 7/11/02	Wed 8/28/02	100%																		
681	User acceptance testing	Mon 9/23/02	Mon 12/23/02	90%																		
682	CMTS Industry Rollout	Mon 9/23/02	Mon 11/3/03	11%																		
683	Develop Strategy for external Deployment	Mon 9/23/02	Fri 12/20/02	46%																		
684	Identify deployment alternatives	Mon 9/23/02	Mon 11/4/02	91%																		
685	Unit Setup	Mon 9/23/02	Fri 9/27/02	100%																		
686	Security	Fri 11/1/02	Mon 11/4/02	70%																		
687	Identify risks and dependencies	Mon 11/4/02	Tue 11/5/02	50%																		
688	Identify critical success factors	Mon 11/4/02	Wed 11/6/02	50%																		
689	Document alternatives	Fri 11/1/02	Tue 11/5/02	10%																		
690	Review alternatives with management	Fri 11/1/02	Mon 11/4/02	50%																		

Project: Central Database Date: Thu 11/7/02	Task		Rolled Up Task		External Tasks	
	Progress		Rolled Up Milestone		Project Summary	
	Milestone		Rolled Up Progress		Group By Summary	
	Summary		Split			

TDHCA Central Database - Project Plan/Status
Compliance Monitoring Tracking System (CMTS) as of October 31, 2002
 (By Calendar Year)

ID	Task Name	Start	Finish	%	Q4 '02				Q1 '03			Q2 '03			Q3 '03			Q4 '03				
					9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12		
691	Finalize and document deployment strategy	Mon 12/16/02	Fri 12/20/02	0%	Compliance Department																	
692	Prepare for External Deployment	Mon 9/23/02	Mon 11/3/03	8%	[Progress bar]																	
693	Security Documentation	Mon 9/23/02	Mon 12/2/02	50%	[Progress bar]																	
694	Prepare Security Documentation	Mon 9/23/02	Mon 9/23/02	100%																		
695	Deploy Security Documentation to the Web	Mon 12/2/02	Mon 12/2/02	0%																		
696	External User Documentation	Mon 9/23/02	Tue 11/12/02	50%	[Progress bar]																	
697	Prepare preliminary end user documentation	Mon 9/23/02	Mon 9/23/02	100%																		
698	Finalize Online User Manual	Sun 11/10/02	Mon 11/11/02	50%																		
699	Deploy end user manual on the Web	Tue 11/12/02	Tue 11/12/02	0%																		
700	Technical Support and Help Desk	Fri 12/20/02	Fri 12/27/02	0%																		
701	Identify and resolve tech support and help desk issues	Fri 12/20/02	Thu 12/26/02	0%																		
702	Preform final review and confirmation	Fri 12/27/02	Fri 12/27/02	0%																		
703	Introductory Packet	Sun 11/17/02	Mon 12/16/02	2%	[Progress bar]																	
704	Prepare draft introductory packet	Sun 11/17/02	Fri 12/13/02	3%																		
705	Review and finalize introductory packet	Mon 12/16/02	Mon 12/16/02	0%																		
706	Perform Deployment to External Users	Mon 9/23/02	Mon 11/3/03	1%	[Progress bar]																	
707	Identify properties for initial deployment	Mon 9/23/02	Mon 9/23/02	100%																		
708	Preform Final review and preparations	Fri 12/20/02	Tue 12/31/02	0%																		
709	Mail Introductory letter	Mon 3/31/03	Mon 11/3/03	0%																		
710	AHDP Deployment	Mon 9/23/02	Tue 12/31/02	25%	[Progress bar]																	



Project: Central Database Date: Thu 11/7/02	Task		Rolled Up Task		External Tasks	
	Progress		Rolled Up Milestone		Project Summary	
	Milestone		Rolled Up Progress		Group By Summary	
	Summary		Split			

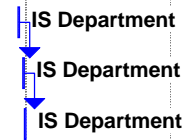
TDHCA Central Database - Project Plan/Status
Compliance Monitoring Tracking System (CMTS) as of October 31, 2002
 (By Calendar Year)












ID	Task Name	Start	Finish	%	Q4 '02				Q1 '03			Q2 '03			Q3 '03			Q4 '03		
					9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12
711	Gather AHDP Requirements	Tue 10/15/02	Fri 10/18/02	100%		James roper														
712	Analyze AHDP Requirements	Mon 9/23/02	Thu 9/26/02	100%	James roper															
713	Develop Specification for AHDP	Mon 11/4/02	Fri 11/8/02	80%		James roper														
714	Estimate Development	Mon 11/11/02	Mon 11/11/02	0%		IS Department														
715	Build Security for AHDP	Tue 11/12/02	Mon 12/2/02	0%		IS Department														
716	Define Reporting Requirements	Tue 12/3/02	Tue 12/3/02	0%																
717	Develop required reports	Wed 12/4/02	Wed 12/4/02	0%																
718	AHDP Data Conversion	Tue 10/15/02	Fri 12/27/02	24%																
719	Analyze AHDP Data	Tue 10/15/02	Wed 10/16/02	100%		IS Department														
720	Prepare AHDP Data for migration	Mon 12/16/02	Fri 12/27/02	20%																
721	Perform migration of AHDP Data for pilot	Fri 12/20/02	Thu 12/26/02	0%																
722	Training	Mon 11/18/02	Thu 11/21/02	0%																
723	Schedule Training	Mon 11/18/02	Tue 11/19/02	0%																
724	Conduct Training	Wed 11/20/02	Thu 11/21/02	0%																
725	Perform Pilot Test	Fri 12/13/02	Fri 12/27/02	2%																
726	Communicate pilot test	Fri 12/13/02	Fri 12/13/02	20%																
727	Assign ID's and Passwords for pilot	Mon 12/16/02	Mon 12/16/02	0%																
728	Coordinate Test Data Input	Tue 12/17/02	Wed 12/18/02	0%																
729	Coordinate Pilot Testing	Thu 12/19/02	Fri 12/20/02	0%																
730	Perform Pilot Test	Mon 12/23/02	Fri 12/27/02	0%																

Project: Central Database Date: Thu 11/7/02	Task		Rolled Up Task		External Tasks	
	Progress		Rolled Up Milestone		Project Summary	
	Milestone		Rolled Up Progress		Group By Summary	
	Summary		Split			

TDHCA Central Database - Project Plan/Status
Compliance Monitoring Tracking System (CMTS) as of October 31, 2002
 (By Calendar Year)

ID	Task Name	Start	Finish	%	Q4 '02				Q1 '03			Q2 '03			Q3 '03			Q4 '03		
					9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12
731	 Migrate the AHDP Data	Fri 12/27/02	Tue 12/31/02	0%																
732	 Synchronize the Data	Fri 12/27/02	Fri 12/27/02	0%																
733	Prepare the Data	Mon 12/30/02	Mon 12/30/02	0%																
734	Migrate the Data	Tue 12/31/02	Tue 12/31/02	0%																



Project: Central Database Date: Thu 11/7/02	Task		Rolled Up Task		External Tasks	
	Progress		Rolled Up Milestone		Project Summary	
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TDHCA Central Database - Project Plan/Status
Compliance Monitoring Tracking System (CMTS) as of October 31, 2002
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1 CMTS Development

The detailed technical plan relating to CMTS is included in other documentation. The technical development was a mutual effort between TDHCA's IS Division and a third party consultant. The remaining technical work relates to "have to" enhancements and bug fixes that were identified in connection with User Acceptance Tests. See the CMTS Functional Planning and Deployment detailed plan, *CMTS Application Issues*, for details.

22 Finalize and test outstanding reports #259

To include risk assesment etc

57 XML markup issues #270

Listed by IS as will not fix

68 Search for accessibility for the World Wide Web #323

Listed by IS as wont fix

**THE TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS**

**Status of
Central Database Project**

**Development of
Fund Allocation/Contract Module**

October 31, 2002

TDHCA Central Database - Project Plan/Status
 Fund Allocation/Contract Module - Development as of October 31, 2002
 (By Calendar Year)

ID	Task Name	Start	Finish	%	Q2 '02			Q3 '02			Q4 '02			Q1 '03			Q2 '03			Q3 '03			Q4 '03			
					4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11		
1	FUND ALLOCATION/CONTRACT MODULE (ON HOLD - See Notes)	Fri 5/10/02	Fri 3/28/03	52%																						
2	SYSTEM REQUIREMENTS ANALYSIS - Fund & Contract Allocation	Fri 5/10/02	Wed 9/18/02	100%																						
3	FUNCTIONAL REQUIREMENTS	Fri 5/10/02	Wed 9/18/02	100%																						
16	MODEL PROCESS AND DATA REQUIREMENTS	Mon 8/5/02	Tue 8/6/02	100%																						
22	PERFORM DATA MODELING	Tue 8/6/02	Fri 8/9/02	100%																						
28	REVIEW FUNCTIONAL SYSTEM REQUIREMENTS DOCUMENT	Mon 8/12/02	Mon 8/12/02	100%																						
32	ANALYSIS AND SYSTEM DESIGN	Mon 8/12/02	Fri 11/29/02	88%																						
33	Complete Conceptual Models	Mon 8/12/02	Tue 8/13/02	91%																						
34	Complete Conceptual Data Model	Mon 8/12/02	Mon 8/12/02	100%	 ↓ Russ Walch, Robert Flores																					
35	Fully Attribute Conceptual Data Model	Mon 8/12/02	Tue 8/13/02	100%	 ↓ Robert Flores, Russ Walch																					
36	Finalize Reconciliation Between CPM and CDM	Tue 8/13/02	Tue 8/13/02	66%	 ↓ Robert Flores, Russ Walch																					
37	Define User Interfaces	Mon 8/12/02	Wed 8/21/02	100%																						
41	DEFINE SUBSYSTEMS	Tue 8/13/02	Wed 8/14/02	100%																						
47	Specify Data Requirements	Mon 8/12/02	Tue 8/13/02	100%																						
50	Complete System Specification (HOME & HTF)	Wed 8/21/02	Fri 8/23/02	100%																						
55	Complete System Specification (CS & EA)	Wed 9/18/02	Fri 11/29/02	85%	 Russ Walch																					
56	REVIEW DELIVERY SPECIFICATION	Fri 8/23/02	Wed 8/28/02	100%																						
62	Perform Management Tasks	Wed 8/28/02	Wed 8/28/02	100%																						
64	TECHNICAL SYSTEM DESIGN - DATABASE	Mon 9/16/02	Wed 11/27/02	81%																						

Project: Central Database Date: Thu 11/7/02	Task		Rolled Up Task		External Tasks	
	Progress		Rolled Up Milestone		Project Summary	
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TDHCA Central Database - Project Plan/Status
 Fund Allocation/Contract Module - Development as of October 31, 2002
 (By Calendar Year)

ID	Task Name	Start	Finish	%	Q2 '02			Q3 '02			Q4 '02			Q1 '03			Q2 '03			Q3 '03			Q4 '03	
					4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11
65	Design Data Bases	Mon 9/16/02	Wed 11/27/02	81%																				
66	Fund Allocation	Mon 9/16/02	Fri 9/20/02	100%																				
67	Contract Allocation	Wed 9/18/02	Thu 9/26/02	100%																				
68	Budget Detail	Thu 9/26/02	Wed 10/2/02	100%																				
69	Draw Process	Tue 10/1/02	Mon 10/7/02	100%																				
70	Contract	Fri 10/4/02	Thu 10/10/02	100%																				
71	Contract Activity	Mon 10/7/02	Fri 10/11/02	100%																				
72	Household Units	Fri 10/4/02	Mon 10/14/02	100%																				
73	CS Reporting	Wed 10/16/02	Thu 11/21/02	75%																				
74	EA Reporting	Thu 11/14/02	Wed 11/27/02	25%																				
75	TECHNICAL SYSTEM DEVELOPMENT - FUND ALLOCATION - ITERATION 1	Mon 9/23/02	Tue 11/5/02	68%																				
76	Fund Source List	Mon 9/23/02	Tue 9/24/02	100%																				
82	CHDO Fund List	Mon 9/23/02	Mon 9/23/02	100%																				
87	Program Fund List	Mon 9/23/02	Mon 9/23/02	100%																				
93	Distribution of Fund Source to Program Funds	Mon 9/23/02	Tue 9/24/02	100%																				
104	Distribution of External to Fund Source	Mon 9/23/02	Wed 9/25/02	100%																				
115	Distribution to CHDO from Program	Mon 9/23/02	Tue 9/24/02	100%																				
126	Transaction List	Mon 9/23/02	Tue 9/24/02	100%																				
131	Compliance Profile Report	Mon 9/23/02	Tue 11/5/02	16%																				
132	Report Mill Report File	Mon 9/23/02	Tue 11/5/02	6%																				

Project: Central Database Date: Thu 11/7/02	Task		Rolled Up Task		External Tasks	
	Progress		Rolled Up Milestone		Project Summary	
	Milestone		Rolled Up Progress		Group By Summary	
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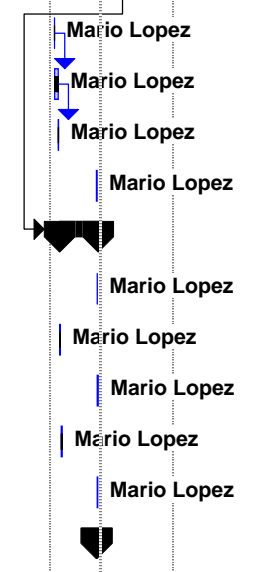
TDHCA Central Database - Project Plan/Status
 Fund Allocation/Contract Module - Development as of October 31, 2002
 (By Calendar Year)

ID	Task Name	Start	Finish	%	Q2 '02			Q3 '02			Q4 '02			Q1 '03			Q2 '03			Q3 '03			Q4 '03		
					4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	
133	Data Access	Mon 9/23/02	Tue 9/24/02	100%																					Mario Lopez
134	Controller	Mon 9/23/02	Mon 9/23/02	100%																					Ryan Campbell
135	Integration	Mon 9/23/02	Mon 9/23/02	100%																					Mario Lopez
136	User Feedback	Tue 11/5/02	Tue 11/5/02	0%																					Mario Lopez
137	TECHNICAL SYSTEM DEVELOPMENT - CONTRACT	Fri 10/4/02	Thu 11/7/02	47%																					■
138	Minimum Contract Detail (minimum stored fields)	Fri 10/4/02	Mon 10/7/02	100%																					■
143	Add/Edit Contract (minimum stored fields)	Tue 10/8/02	Tue 11/5/02	88%																					■
144	Command	Tue 10/8/02	Tue 10/8/02	100%																					Edward Gonzales
145	Controller	Tue 10/8/02	Tue 10/8/02	100%																					Edward Gonzales
146	Bean (Validation)	Tue 10/8/02	Wed 10/9/02	100%																					Edward Gonzales
147	View (vm)	Wed 10/9/02	Wed 10/9/02	100%																					Edward Gonzales
148	Tests	Tue 11/5/02	Tue 11/5/02	0%																					Edward Gonzales
149	Contract Fund List	Tue 11/5/02	Thu 11/7/02	0%																					■
150	DB Work (views)	Tue 11/5/02	Tue 11/5/02	0%																					Edward Gonzales
151	Domain	Tue 11/5/02	Tue 11/5/02	0%																					Edward Gonzales
152	Controller	Tue 11/5/02	Wed 11/6/02	0%																					Edward Gonzales
153	Totals	Wed 11/6/02	Thu 11/7/02	0%																					Edward Gonzales
154	View (vm)	Thu 11/7/02	Thu 11/7/02	0%																					Edward Gonzales
155	Tests	Thu 11/7/02	Thu 11/7/02	0%																					Edward Gonzales
156	Contract List	Fri 10/4/02	Wed 10/9/02	100%																					■

Project: Central Database Date: Thu 11/7/02	Task		Rolled Up Task		External Tasks	
	Progress		Rolled Up Milestone		Project Summary	
	Milestone		Rolled Up Progress		Group By Summary	
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TDHCA Central Database - Project Plan/Status
 Fund Allocation/Contract Module - Development as of October 31, 2002
 (By Calendar Year)

ID	Task Name	Start	Finish	%	Q2 '02			Q3 '02			Q4 '02			Q1 '03			Q2 '03			Q3 '03			Q4 '03	
					4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11
161	Contract Activity List	Thu 10/10/02	Mon 10/14/02	100%																				
166	Week 3+ Iteration Tasks (UNASSIGNED)	Mon 11/4/02	Tue 11/5/02	13%																				
167	Contract Detail: AMFI	Mon 11/4/02	Tue 11/5/02	9%																				
168	Contract Calculated Fields	Mon 11/4/02	Mon 11/4/02	18%																				
169	Contract Detail Draw Summary	Mon 11/4/02	Mon 11/4/02	18%																				
170	Contract Detail Budget Summary	Mon 11/4/02	Mon 11/4/02	18%																				
171	Ability to scroll through contracts	Mon 11/4/02	Tue 11/5/02	9%																				
172	TECHNICAL SYSTEM DEVELOPMENT - CONTRACT ACTIVITY	Fri 10/4/02	Wed 11/6/02	21%																				
173	Activity Detail – OCC or HBA	Fri 10/4/02	Tue 11/5/02	71%																				
174	Domain	Fri 10/4/02	Fri 10/4/02	100%																				
175	Controller	Fri 10/4/02	Mon 10/7/02	100%																				
176	View (vm)	Mon 10/7/02	Mon 10/7/02	100%																				
177	Tests	Tue 11/5/02	Tue 11/5/02	0%																				
178	Add & Edit HBA or OCC	Tue 10/8/02	Wed 11/6/02	40%																				
179	Domain	Tue 11/5/02	Tue 11/5/02	0%																				
180	Controller	Tue 10/8/02	Tue 10/8/02	100%																				
181	Bean	Tue 11/5/02	Wed 11/6/02	0%																				
182	View (vm)	Wed 10/9/02	Thu 10/10/02	100%																				
183	Tests	Tue 11/5/02	Tue 11/5/02	0%																				
184	Activity Detail Address	Tue 11/5/02	Tue 11/5/02	0%																				



Project: Central Database Date: Thu 11/7/02	Task		Rolled Up Task		External Tasks	
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TDHCA Central Database - Project Plan/Status
 Fund Allocation/Contract Module - Development as of October 31, 2002
 (By Calendar Year)

ID	Task Name	Start	Finish	%	Q2 '02			Q3 '02			Q4 '02			Q1 '03			Q2 '03			Q3 '03			Q4 '03	
					4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11
185	View (vm)	Tue 11/5/02	Tue 11/5/02	0%																				
186	Link to Household from Contract Activity	Fri 10/11/02	Fri 10/11/02	100%																				
188	Week 3+ Iteration Tasks (UNASSIGNED)	Mon 11/4/02	Wed 11/6/02	11%																				
189	Activity: Search/Add/Edit/Link Address	Mon 11/4/02	Wed 11/6/02	6%																				
190	Activity Detail – RHD	Mon 11/4/02	Mon 11/4/02	18%																				
191	Activity Detail – TBR	Mon 11/4/02	Mon 11/4/02	18%																				
192	Add & Edit TBRA	Mon 11/4/02	Tue 11/5/02	9%																				
193	Saving/Updating Special Needs	Mon 11/4/02	Tue 11/5/02	9%																				
194	Special Needs	Mon 11/4/02	Mon 11/4/02	18%																				
195	Add/Edit RHD Activity	Mon 11/4/02	Tue 11/5/02	9%																				
196	Activity Scrolling	Mon 11/4/02	Tue 11/5/02	9%																				
197	Purpose of Project	Mon 11/4/02	Mon 11/4/02	18%																				
198	TECHNICAL SYSTEM DEVELOPMENT - CONTRACT ACTIVITY BUDGET	Fri 10/4/02	Mon 11/11/02	12%																				
199	Change Transsaction Model	Fri 10/4/02	Tue 10/8/02	100%																				
203	Pull program funds into contract funds	Tue 11/5/02	Thu 11/7/02	0%																				
204	Domain	Tue 11/5/02	Tue 11/5/02	0%																				
205	Controller	Tue 11/5/02	Tue 11/5/02	0%																				
206	Bean	Tue 11/5/02	Tue 11/5/02	0%																				
207	Transaction Object	Tue 11/5/02	Wed 11/6/02	0%																				
208	Views (vm)	Wed 11/6/02	Wed 11/6/02	0%																				

Project: Central Database Date: Thu 11/7/02	Task		Rolled Up Task		External Tasks	
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TDHCA Central Database - Project Plan/Status
Fund Allocation/Contract Module - Development as of October 31, 2002
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ID	Task Name	Start	Finish	%	Q2 '02			Q3 '02			Q4 '02			Q1 '03			Q2 '03			Q3 '03			Q4 '03	
					4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11
209	Tests	Wed 11/6/02	Thu 11/7/02	0%																				
210	Week 3+ Iteration Tasks (UNASSIGNED)	Mon 11/4/02	Mon 11/11/02	7%																				
211	Cost category admin	Mon 11/4/02	Thu 11/7/02	5%																				
212	Add/edit categories to contract activity	Mon 11/4/02	Mon 11/4/02	18%																				
213	Add/edit items	Mon 11/4/02	Mon 11/4/02	18%																				
214	Approve contract activity budget	Mon 11/4/02	Mon 11/4/02	18%																				
215	Contract fund list	Mon 11/4/02	Mon 11/4/02	18%																				
216	Push contract funds to activity	Mon 11/4/02	Thu 11/7/02	5%																				
217	Reverse to contract from activity	Mon 11/4/02	Thu 11/7/02	5%																				
218	View contract budget detail	Mon 11/4/02	Tue 11/5/02	9%																				
219	Edit contact budget detail	Mon 11/4/02	Wed 11/6/02	6%																				
220	Pull CHDO funds into contract funds	Mon 11/4/02	Thu 11/7/02	5%																				
221	Summarize and calculate committed and uncommitted balances for each	Mon 11/4/02	Tue 11/5/02	12%																				
222	Deobligation of funds from contract to program	Mon 11/4/02	Thu 11/7/02	5%																				
223	Deobligation of funds from contract to CHDO	Mon 11/4/02	Thu 11/7/02	5%																				
224	View contract activity budget	Mon 11/4/02	Wed 11/6/02	6%																				
225	Contract budget - Other	Mon 11/4/02	Mon 11/11/02	3%																				
226	TECHNICAL SYSTEM DEVELOPMENT - HOUSEHOLD	Fri 10/4/02	Thu 11/7/02	27%																				
227	OCC HBA Detail View	Fri 10/4/02	Tue 11/5/02	83%																				
228	Schema (XML & SQL)	Fri 10/4/02	Fri 10/4/02	100%																				

Michael Galkovsky

Ryan Campbell

Project: Central Database Date: Thu 11/7/02	Task		Rolled Up Task		External Tasks	
	Progress		Rolled Up Milestone		Project Summary	
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TDHCA Central Database - Project Plan/Status
Fund Allocation/Contract Module - Development as of October 31, 2002
 (By Calendar Year)

ID	Task Name	Start	Finish	%	Q2 '02			Q3 '02			Q4 '02			Q1 '03			Q2 '03			Q3 '03			Q4 '03	
					4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11
229	Domain	Fri 10/4/02	Fri 10/4/02	100%																				
230	Controller	Mon 10/7/02	Mon 10/7/02	100%																				
231	View (vm)	Mon 10/7/02	Mon 10/7/02	100%																				
232	Tests	Tue 11/5/02	Tue 11/5/02	0%																				
233	OCC HBA Add/Edit/Delete	Wed 10/9/02	Thu 11/7/02	31%																				
234	Command	Tue 11/5/02	Tue 11/5/02	0%																				
235	Controllers	Wed 10/9/02	Thu 10/10/02	100%																				
236	Bean	Tue 11/5/02	Wed 11/6/02	0%																				
237	View (vm)	Wed 11/6/02	Wed 11/6/02	0%																				
238	Tests	Thu 11/7/02	Thu 11/7/02	0%																				
239	Week 3+ Iteration Tasks (UNASSIGNED)	Mon 11/4/02	Tue 11/5/02	10%																				
240	RHD Detail View	Mon 11/4/02	Tue 11/5/02	12%																				
241	RHD Add/Edit/Delete	Mon 11/4/02	Tue 11/5/02	9%																				
242	TBRA Add/Edit/Delete	Mon 11/4/02	Tue 11/5/02	9%																				
243	TECHNICAL SYSTEM DEVELOPMENT - DRAW PROCESS (UNASSIGNED)	Mon 11/25/02	Wed 12/4/02	0%																				
244	TECHNICAL SYSTEM DEVELOPMENT - EA/CS ONLINE REPORTING (UNASSIGNED)	Wed 2/19/03	Fri 2/28/03	0%																				
245	TECHNICAL SYSTEM DEVELOPMENT - WORKFLOW	Tue 11/5/02	Mon 11/25/02	0%																				
246	Approval Module	Tue 11/5/02	Thu 11/14/02	0%																				
247	Document Module	Thu 11/14/02	Mon 11/25/02	0%																				
248	DATA CONVERSION	Fri 11/29/02	Mon 2/17/03	0%																				

Project: Central Database Date: Thu 11/7/02	Task		Rolled Up Task		External Tasks	
	Progress		Rolled Up Milestone		Project Summary	
	Milestone		Rolled Up Progress		Group By Summary	
	Summary		Split			

TDHCA Central Database - Project Plan/Status
 Fund Allocation/Contract Module - Development as of October 31, 2002
 (By Calendar Year)

ID	Task Name	Start	Finish	%	Q2 '02			Q3 '02			Q4 '02			Q1 '03			Q2 '03			Q3 '03			Q4 '03	
					4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11
249	SYSTEM AND ACCEPTANCE TESTING	Tue 1/14/03	Fri 3/28/03	0%																				
250	COMPLETE DELIVERY	Tue 1/14/03	Wed 1/15/03	0%																				
251	Prepare Delivery Plan	Tue 1/14/03	Tue 1/14/03	0%																				
252	Prepare Test and Transition Plans	Tue 1/14/03	Tue 1/14/03	0%																				
253	Specify Acceptance Test	Wed 1/15/03	Wed 1/15/03	0%																				
254	PREPARE SYSTEM TESTS	Wed 1/15/03	Fri 1/17/03	0%																				
255	Complete System Test Specifications	Wed 1/15/03	Thu 1/16/03	0%																				
256	Prepare System Test Data	Thu 1/16/03	Fri 1/17/03	0%																				
257	CREATE SYSTEM TESTING ENVIRONMENT	Fri 1/17/03	Fri 1/17/03	0%																				
258	Prepare System Testing Environment	Fri 1/17/03	Fri 1/17/03	0%																				
259	Test System Testing Environment	Fri 1/17/03	Fri 1/17/03	0%																				
260	PERFORM SYSTEM TESTS	Fri 1/17/03	Thu 1/23/03	0%																				
261	Set Up System Tests	Fri 1/17/03	Fri 1/17/03	0%																				
262	Execute System Test	Fri 1/17/03	Mon 1/20/03	0%																				
263	Evaluate System Test Results and Resolve Problems	Mon 1/20/03	Wed 1/22/03	0%																				
264	Document System Test Results	Wed 1/22/03	Thu 1/23/03	0%																				
265	PREPARE ACCEPTANCE TEST	Thu 1/23/03	Fri 1/24/03	0%																				
266	Complete Acceptance Test Specifications	Thu 1/23/03	Fri 1/24/03	0%																				
267	Prepare Acceptance Test Data	Fri 1/24/03	Fri 1/24/03	0%																				
268	PERFORM ACCEPTANCE TEST	Fri 2/7/03	Tue 2/11/03	0%																				

Project: Central Database Date: Thu 11/7/02	Task		Rolled Up Task		External Tasks	
	Progress		Rolled Up Milestone		Project Summary	
	Milestone		Rolled Up Progress		Group By Summary	
	Summary		Split			

TDHCA Central Database - Project Plan/Status
Fund Allocation/Contract Module - Development as of October 31, 2002
 (By Calendar Year)

ID	Task Name	Start	Finish	%	Q2 '02			Q3 '02			Q4 '02			Q1 '03			Q2 '03			Q3 '03			Q4 '03		
					4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	
269	Set Up Acceptance Test	Fri 2/7/03	Fri 2/7/03	0%																					Functional Analysts,Robert Flores,Ry
270	Execute Acceptance Test	Fri 2/7/03	Mon 2/10/03	0%																					Functional Analysts
271	Evaluate Acceptance Test Results and Resolve Problems	Mon 2/10/03	Tue 2/11/03	0%																					Functional Analysts,Ryan Campbell
272	Document Acceptance Test Results	Tue 2/11/03	Tue 2/11/03	0%																					Functional Analysts
273	ACCEPT SYSTEM	Thu 3/27/03	Thu 3/27/03	0%																					
274	Accept System	Thu 3/27/03	Thu 3/27/03	0%																					Functional Analysts
275	Perform Management Tasks	Fri 3/28/03	Fri 3/28/03	0%																					
276	Quality Assurance Activity	Fri 3/28/03	Fri 3/28/03	0%																					Walt Vega

Project: Central Database Date: Thu 11/7/02	Task		Rolled Up Task		External Tasks	
	Progress		Rolled Up Milestone		Project Summary	
	Milestone		Rolled Up Progress		Group By Summary	
	Summary		Split			

TDHCA Central Database - Project Plan/Status
Fund Allocation/Contract Module - Development as of October 31, 2002
(By Calendar Year)

1 FUND ALLOCATION/CONTRACT MODULE (ON HOLD - See Notes)

The Fund Allocation/Contract module is one of the most difficult modules within the Central Database project effort. IS estimates that the Fund/Contract Allocation module will require technical assistance from Mr. Russ Walch for data gathering, requirements and specifications in the form of 206 hours. Additional technical assistance in the form of Java programming services will be required from Mr. MicHael Galkovsky of 700 hours. The hours estimated for Mr. MicHael Galkovsky are to work on the Fund/Contract Allocation module, the Compliance Monitoring & Tracking System (CMTS) and aiding in the technical design, architecture and development of other objects as required.

NOTE: The original date Software Application Delivery Date has slipped to 3/28/03 (this includes system acceptance testing) from that previously reported due to CMTS "have to" enhancements and bug fixes. These enhancements and bugs had not been previously identified in the original targets. Please also note that the % complete was 1% less due to the addition of some technical tasks.

**THE TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS**

**Status of
Central Database Project**

**Functional Planning and Deployment of
Fund Allocation/Contract Module**

October 31, 2002

TDHCA Central Database - Project Plan/Status
Fund Allocation/Contract Module - Functional Planning and Deployment
as of October 31, 2002
 (By Calendar Year)

ID	Task Name	Start	Finish	%	Q4 '02			Q1 '03			Q2 '03			Q3 '03					
					8	9	10	11	12	1	2	3	4	5	6	7	8	9	
1	Functional Planning and Deployment	Mon 9/2/02	Wed 4/30/03	20%															
2	✓ Fund Allocation Functional Requirements Review	Mon 9/2/02	Mon 9/9/02	100%															
3	✓ Fund Allocation Design and Screens Review	Wed 9/4/02	Wed 9/11/02	100%															
4	✓ Contract Functional Requirements Review	Fri 10/11/02	Fri 10/18/02	100%															
5	☐ Contract Design and Screens Review	Fri 10/11/02	Fri 10/25/02	66%															
6	Data Scrubbing	Mon 9/9/02	Fri 12/6/02	33%															
7	✓ Develop Data Scrubbing Strategy	Mon 9/9/02	Mon 9/9/02	100%	Walt Vega,Roger Wilson,Ricardo Medina,Robert Flores,Russ Walch														
8	Home	Fri 9/13/02	Fri 12/6/02	37%															
9	✓ Identify all sources of data	Fri 9/13/02	Wed 10/2/02	100%	Cathy Gutierrez,Valerie Gonzales,Roger Wilson														
10	✓ Identify interaction of data with other systems	Fri 9/13/02	Wed 10/2/02	100%	Cathy Gutierrez,Valerie Gonzales,Roger Wilson														
11	✓ Scope the size of each data source	Fri 9/13/02	Wed 10/2/02	100%	Roger Wilson,Ricardo Medina														
12	☐ Scrub data	Fri 9/13/02	Fri 12/6/02	4%	Cathy Gutierrez,Valerie Gonzales,Ricardo Medina,Adri														
13	✓ Determine how best to reconcile dollar amounts	Fri 9/20/02	Mon 9/30/02	100%	Valerie Gonzales,Cathy Gutierrez,Roger Wilson														
14	☐ Run preliminary exports of legacy data and check for errors	Fri 10/18/02	Fri 10/25/02	50%	Ricardo Medina,Cathy Gutierrez,Valerie Gonzales,Roger Wilso														
15	☐ Reconcile all exportable dollar amounts	Mon 9/30/02	Thu 10/31/02	60%	Cathy Gutierrez,Valerie Gonzales														
16	☐ Export and scrub all data being converted to the new system.	Mon 10/21/02	Fri 12/6/02	0%	Cathy Gutierrez,Valerie Gonzales,Adrian Guzman,Rog														
17	☐ Flag data sources for conversion programs	Mon 11/25/02	Fri 12/6/02	0%	Roger Wilson,Ricardo Medina,Adrian Guzman,Robert														
18	☐ Document and obtain director approval of data sources to be converted	Fri 12/6/02	Fri 12/6/02	0%	Cathy Gutierrez,Valerie Gonzales,Skip Beard,Roger														

Project: Central Database Date: Thu 11/7/02	Task		Rolled Up Task		External Tasks	
	Progress		Rolled Up Milestone		Project Summary	
	Milestone		Rolled Up Progress		Group By Summary	
	Summary		Split			

* If asterisked (*), the detailed plans identifying tasks and resources are pending. Accordingly, start and finish dates are very preliminary and will likely change as detailed plans are developed.

TDHCA Central Database - Project Plan/Status
Fund Allocation/Contract Module - Functional Planning and Deployment
as of October 31, 2002
 (By Calendar Year)

ID	Task Name	Start	Finish	%	Q4 '02					Q1 '03			Q2 '03			Q3 '03			
					8	9	10	11	12	1	2	3	4	5	6	7	8	9	
19	HTF	Fri 9/13/02	Fri 12/6/02	38%															
20	Identify all sources of data	Fri 9/13/02	Wed 10/2/02	100%	Keith Hoffpaur, Marian Cobb, Roger Wilson														
21	Identify interaction of data with other systems	Fri 9/13/02	Wed 10/2/02	100%	Roger Wilson, Keith Hoffpaur, Marian Cobb														
22	Scope the size of each data source	Fri 9/13/02	Wed 10/2/02	100%	Ricardo Medina, Adrian Guzman, Roger Wilson														
23	Scrub data	Fri 9/13/02	Fri 12/6/02	25%	Ricardo Medina, Adrian Guzman, Roger Wilson, Keith H														
24	Determine how best to reconcile dollar amounts	Wed 9/18/02	Wed 9/18/02	100%	Roger Wilson, Keith Hoffpaur, Marian Cobb														
25	Run preliminary exports of legacy data and check for errors	Mon 10/21/02	Fri 10/25/02	0%	Ricardo Medina, Adrian Guzman, Roger Wilson, Keith Hoffpaur														
26	Reconcile all exportable dollar amounts	Wed 9/18/02	Wed 9/18/02	100%	Marian Cobb														
27	Export and scrub all data being converted to the new system.	Mon 10/21/02	Fri 12/6/02	0%	Ricardo Medina, Adrian Guzman, Roger Wilson, Keith H														
28	Flag data sources for conversion programs	Mon 11/25/02	Fri 12/6/02	0%	Roger Wilson, Ricardo Medina, Adrian Guzman, Robert														
29	Document and obtain director approval of data sources to be converted	Fri 12/6/02	Fri 12/6/02	0%	Keith Hoffpaur, Roger Wilson														
30	OCI	Fri 9/13/02	Thu 10/17/02	100%															
31	Perform detailed analysis of OCI funding and tracking	Fri 9/13/02	Thu 10/17/02	100%	Diana Day, Ernie Palacios, Maria Cazares, Roger Huffman, Homer														
32	Finalize OCI data scrubbing strategy	Thu 10/17/02	Thu 10/17/02	100%															
33	Community Services	Fri 9/13/02	Fri 12/6/02	23%															
34	Identify all sources of data	Fri 9/13/02	Wed 10/2/02	100%	Roger Wilson, Dyna Lang, Wanda Robins, Nan Norris, Gloria Mitchell														
35	Identify interaction of data with other systems	Fri 9/13/02	Wed 10/2/02	100%	Roger Wilson, Nan Norris, Gloria Mitchell														
36	Scope the size of each data source	Fri 9/13/02	Wed 10/2/02	100%	Roger Wilson, Ricardo Medina														

Project: Central Database Date: Thu 11/7/02	Task		Rolled Up Task		External Tasks	
	Progress		Rolled Up Milestone		Project Summary	
	Milestone		Rolled Up Progress		Group By Summary	
	Summary		Split			

* If asterisked (*), the detailed plans identifying tasks and resources are pending. Accordingly, start and finish dates are very preliminary and will likely change as detailed plans are developed.

TDHCA Central Database - Project Plan/Status
Fund Allocation/Contract Module - Functional Planning and Deployment
as of October 31, 2002
 (By Calendar Year)

ID	Task Name	Start	Finish	%	Q4 '02					Q1 '03			Q2 '03			Q3 '03			
					8	9	10	11	12	1	2	3	4	5	6	7	8	9	
37	Scrub data	Fri 9/13/02	Fri 12/6/02	0%															
38	Determine how best to reconcile dollar amounts	Tue 9/24/02	Tue 9/24/02	100%															
39	Run preliminary exports of legacy data and check for errors	Fri 10/11/02	Fri 10/25/02	5%															
40	Reconcile all exportable dollar amounts	Wed 9/25/02	Thu 10/31/02	1%															
41	Export and scrub all data being converted to the new system.	Mon 10/21/02	Fri 12/6/02	0%															
42	Flag data sources for conversion programs	Mon 11/25/02	Fri 12/6/02	0%															
43	Document and obtain director approval of data sources to be converted	Fri 12/6/02	Fri 12/6/02	0%															
44	Energy Assistance	Fri 9/13/02	Fri 12/6/02	24%															
45	Identify all sources of data	Fri 9/13/02	Wed 10/2/02	100%															
46	Identify interaction of data with other systems	Fri 9/13/02	Wed 10/2/02	100%															
47	Scope the size of each data source	Fri 9/13/02	Wed 10/2/02	100%															
48	Scrub data	Fri 9/13/02	Fri 12/6/02	0%															
49	Determine how best to reconcile dollar amounts	Wed 10/2/02	Fri 10/18/02	4%															
50	Run preliminary exports of legacy data and check for errors	Fri 10/11/02	Tue 10/15/02	100%															
51	Reconcile all exportable dollar amounts	Wed 10/2/02	Thu 10/31/02	0%															
52	Export and scrub all data being converted to the new system.	Mon 10/21/02	Fri 12/6/02	0%															
53	Flag data sources for conversion programs	Mon 11/25/02	Fri 12/6/02	0%															
54	Document and obtain director approval of data sources to be converted	Fri 12/6/02	Fri 12/6/02	0%															

Project: Central Database Date: Thu 11/7/02	Task		Rolled Up Task		External Tasks	
	Progress		Rolled Up Milestone		Project Summary	
	Milestone		Rolled Up Progress		Group By Summary	
	Summary		Split			

* If asterisked (*), the detailed plans identifying tasks and resources are pending. Accordingly, start and finish dates are very preliminary and will likely change as detailed plans are developed.

TDHCA Central Database - Project Plan/Status
Fund Allocation/Contract Module - Functional Planning and Deployment
as of October 31, 2002
 (By Calendar Year)

ID	Task Name	Start	Finish	%	Q4 '02			Q1 '03			Q2 '03			Q3 '03					
					8	9	10	11	12	1	2	3	4	5	6	7	8	9	
55	*Data Migration	Wed 10/2/02	Fri 3/28/03	6%															
56	Develop Data Migration Strategy	Wed 10/2/02	Fri 11/15/02	0%	Roger Wilson,Ricardo Medina,Robert Flores,Walt Vega,Cu														
57	Perform Data Exports and Analysis	Fri 10/11/02	Fri 3/28/03	18%															
58	Data Mapping	Fri 10/11/02	Fri 3/28/03	0%															
59	Other Tasks...	Fri 10/11/02	Fri 3/28/03	0%															
60	*User Documentation	Fri 11/1/02	Fri 2/14/03	0%															
61	*Training	Fri 11/1/02	Fri 2/28/03	0%															
62	*Testing	Wed 12/4/02	Fri 3/28/03	0%															
63	*Deployment	Mon 1/6/03	Wed 4/23/03	0%															
64	*Go Live Date	Wed 4/30/03	Wed 4/30/03	0%															

Project: Central Database Date: Thu 11/7/02	Task		Rolled Up Task		External Tasks	
	Progress		Rolled Up Milestone		Project Summary	
	Milestone		Rolled Up Progress		Group By Summary	
	Summary		Split			

* If asterisked (*), the detailed plans identifying tasks and resources are pending. Accordingly, start and finish dates are very preliminary and will likely change as detailed plans are developed.

TDHCA Central Database - Project Plan/Status
Fund Allocation/Contract Module - Functional Planning and Deployment
as of October 31, 2002
(By Calendar Year)

31 Perform detailed analysis of OCI funding and tracking

From Roger Wilson's project notes:

Met with Roger Huffman, Maria Cazares, and Walt Vega to discuss OCI's current working situation with ORCA and TDHCA's data as it relates to the Central Database. Determined that since OCI has two standing MOU agreements with HOME and Bond and that all of their Colonia Self Help Center Contracts are maintained on ORCA's systems, as well as all loans are administered using Mitas, it was agreed that they will not be a part of the Contract and Fund Allocation module. I am going to verify with HOME and HTF the MOU agreement as well as verify the source of funds on the CFDC Consumer Education contract. I will also speak with Ernie Palacios and Diana Day on the Bootstrap funds and how they track them.

Met with Curtis and Homer Cabello to verify all OCI information and research further what systems are used currently to track each funding source for OCI. It was agreed to by Homer that existing contract information from HOME and HTF will be converted into the Central Database but no other data i.e. Mitas or CDBG (Oracle) will be converted.

Met with Curtis and Heather Hodnett to discuss Bond tracking of Bootstrap funds. Determined that they are using Mitas for loans and spreadsheets for funds.

32 Finalize OCI data scrubbing strategy

OCI's data will be scrubbed by the program area responsible for those funds.

* If asterisked (*), the detailed plans identifying tasks and resources are pending. Accordingly, start and finish dates are very preliminary and will likely change as detailed plans are developed.

**THE TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS**

**Status of
Central Database Project**

Status of Funds

October 31, 2002

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

**Central Database Project
Status of Funds as of October 31, 2002**

Description	Total
Appropriated Funds FY 2000-2003:	\$760,955
Less:	
Expenditures thru 10/31/02:	
Employee Training - Advanced Java Programming training and Graphical User Interface and Presentation. (\$7,640); Design and development of Compliance Monitoring and Tracking System. (\$262,677); Computer Programmer Services - Finalization of Compliance Monitoring System. (\$46,083); Computer Programming Services - One Systems Analyst for gathering program information needs, functional and system requirements and specifications. Two Programmers for software development. (\$223,944); Computer Equipment – Sun Server Hardware, Disk Drives, Processors, Memory (RAM) and required upgrades. (\$42,987); Computer Software - Software database tools. (\$4,270); Miscellaneous - US Postal Service FIPS Database Annual Subscription. (\$350)	587,951
Lapsed Funds	<u>278</u>
	172,726
Less Obligations as of 10/31/02 (See Note 1. on following page):	
Systems Analyst – Business Data Architect for 1,039 hours at \$65/hr. (\$67,535); Computer Programming Services for 1,056 hours at \$50/hr. (\$52,800)	<u>120,335</u>
Unexpended / Unobligated Balances as of 10/31/02	<u><u>\$52,391</u></u>

Planned Use of Unexpended / Unobligated Balances as of 10/31/02:

Date / Period	Description	Total
	Unexpended / Unobligated Balances as of 10/31/02 (as above)	\$52,391
	Less Anticipated Use of Funds:	
FY 2003	Additional programming technical support for the Compliance Monitoring and tracking system, including post-implementation enhancements and phone support for external property owners who use the system.	40,000
	Balance of Unexpended / Unobligated Balances as of 10/31/02 – Usage not currently planned	<u><u>\$12,391</u></u>

Note 1. - Deliverables expected from amounts Obligated as of 10/31/02:

The obligated funds as of October 31, 2002, are for the following purposes:

- Continuing development of system requirements including process models and data models. This may also include interfaces to legacy or other systems such as accounting and finance.
- Continuing development of system design specifications to address the functional requirements.
- Producing a working system for the review and approval of department.
- Delivering a working web-based software application that utilizes the Central Database schema.
- Coordinating acceptance testing of system modules and full integration testing across all modules.
- Developing interfaces, where necessary, to existing/legacy systems that require data exchange(s) with the Central Database.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Construction Inspection Fees - Schedule of Receipts and Disbursements

**For the Period Fiscal Year 1999 through
August 31, 2002 (Disbursements) / September 30, 2002 (Receipts)**

(Unaudited)

	<u>Amount</u>
Per Accounting Records:	
LIHTC Inspection Fees Paid for Services Provided; 9-1-98 through 8-31-02	\$779,151.46
Less Fees Reimbursed by Developers, FY 1999 through 9-30-02	<u>\$679,025.31</u>
Net Inspection Fees Paid in Excess of Amounts Reimbursed	<u>\$100,126.15</u>
 Recap Summary of Detail, by Project:	
Summary of Inspection Fees Paid in Excess of Reimbursements Applied (109 projects)	\$203,238.02 ¹
Less Summary of Reimbursements in Excess of Inspection Fees Paid (63 projects)	<u>\$103,111.87²</u>
Net Inspection Fees Paid in Excess of Amounts Reimbursed	<u><u>\$100,126.15</u></u>

Footnotes:

¹ *Detail documentation supporting Inspection Fees Paid in Excess of Amounts Reimbursed of \$203,238, needs to be investigated, after application of reimbursements pursuant to the following bullet, to ensure that fees paid and the reimbursements applied are appropriate. Remaining balances may represent amounts Due From Developers.*

² *Detail documentation supporting the Reimbursements in Excess of Inspection Fees Paid, of \$103,111, needs to be investigated to ensure that reimbursement amounts have been properly applied to projects. Remaining balances may represent amounts Due To Developers.*

***Texas Department of Housing and
Community Affairs***

***Summary Report of Prior Audit Issues
(except those prior audit issues previously reported as
implemented or otherwise resolved)***

Texas Department of Housing and Community Affairs - Summary Report of Prior Audit Issues (except those prior audit issues previously reported as implemented or otherwise resolved)

Ref. #	Report Date Auditors	Report Name Audit Scope	Status		Target
			Codes*	Date	Date
136	06/04/99 IA	Identification and Tracking of Subrecipients - Rpt. No. 9.09-1 To assess the adequacy of the Department's subrecipient monitoring systems and related policies and procedures.	Px	09/30/99	04/30/00
			Px	03/15/00	04/30/00
			Pxx	08/29/00	NR
			Px	01/16/01	07/31/01
			Px	07/25/01	NR
			Px	01/08/02	NR
			Px	04/26/02	NR
			Px	7/15/02	1/31/03
			Px	10/01/02	1/31/03
			Px	10/25/02	1/31/03
Issue: The Department does not have formalized processes in place to identify and capture monitoring-related information that should be used to monitor and evaluate the performance of subrecipients, to plan and track the results of monitoring reviews and to share between the Department's program areas for planning and monitoring purposes to effectively and efficiently carry out monitoring responsibilities.					
DIVISION: Multiple					
Status: 10/01/02 - All program areas have previously reported that this issue has been corrected except as noted below. 09/11/02 - It was not until January 2001 that the Section 8 new program management became aware of and began to develop a subrecipient tracking system. However, it was determined during development of the process that the current Genesis System utilized by Section 8 was not sufficient to provide the necessary tracking. The Section 8 Program will convert to a new database system to accomplish this task by 1/1/03. 10/25/02 STATUS/MANAGEMENT COMMENTS: Section 8 Program staff has met with Compliance Division staff and has determined that Section 8 Management Assessment Program indicators can be used to develop a subrecipient monitoring checklist. The checklist has now been developed and completed this week. Upon final approval of the checklist, the subrecipient monitoring system will be implemented.					
119	06/04/99 IA	Selection of Subrecipients for Monitoring Reviews - Rpt. No. 9.09-2 To assess the Department's management controls (systems, policies, procedures) used to select subrecipients for monitoring reviews.	Px	09/30/99	12/31/99
			Px	03/15/00	05/31/00
			Px	08/29/00	12/31/00
			Px	01/18/01	04/30/01
			Px	07/27/01	NR
			Px	04/25/02	05/31/02
			Px	7/31/02	1/31/03
			Px	09/25/02	10/31/02
			Px	10/22/02	01/31/03
			Issue: The Department does not have formal policies and procedures regarding "joint" monitoring visits to review multiple programs, if applicable, simultaneously, rather than monitoring individual programs separately.		
DIVISION: Multiple					
Status: 10/22/02 - On 10/21/2002 SOP was routed to Executive for final review.					

Ref. #	Report Date Auditors	Report Name Audit Scope	Status		Target Date	
			Codes*	Date		
252	07/24/00 IA	Housing Trust Fund - Subrecipient Monitoring, Rpt. No. 0.04 The HTF program's subrecipient monitoring function.	Px	08/24/00	12/31/00	
			Px	04/18/01	05/31/01	
	Px	07/25/01	08/31/01			
	Px	09/28/01	NR			
	Pxx	01/7/02	NR			
	Px	04/25/02	05/31/02			
	Px	07/09/02	01/31/03			
	Px	09/25/02	01/31/02			
	Px	10/25/02	01/31/02			
	<p>Issue: We recommend that Department management explore alternatives regarding the inspection of its construction projects, including (1.) establishing an agency-wide construction inspection section, (2.) formally evaluating the costs and benefits associated with contracting with third parties, (3.) formally evaluating the degree of overlap between HTF's construction inspection objectives and procedures and those of third parties and (4.) considering obtaining additional inspection resources.</p> <p>DIVISION: Multiple</p> <p>Status: 10/25/02 - An agency-wide inspection section is being established under the Compliance Division and is expected to work closely with an agency-wide draw request section also under Compliance. 2. Costs associated with contracting with third-party construction inspectors are currently being investigated by Compliance and HTF staff. Preliminary SOP's and drafts of formal requests for information and proposal are underway. 3. HTF is initiating a process whereby project architects provide written certification that building plans and final construction complies with detailed and specified program objectives. 4. Consideration for additional inspection resources will be reviewed as part of the agency-wide reorganization.</p>					
187	09/19/00 HUD	Section 8 Management Review Review conducted week of August 7, 2000 - To ensure compliance with statutory and regulatory requirements.	Dx	01/03/01		
			Dx	03/04/01		
	Dx	04/18/01	NR			
	Dx	11/28/01	NR			
	Pxx	04/25/02	08/31/02			
	Px	7/31/02	12/31/02			
	Px	8/30/02	12/31/02			
	Px	10/25/02	12/31/02			
	<p>Issue: Finding No. 17: Contract of Participation and Establishment of Escrow Account, Documentation could not Be Provided to Support Implementation of a Family Self-Sufficiency (FSS) Program (Repeat Finding).</p> <p>DIVISION: Section 8</p> <p>Status: 10/25/02: Based upon an analysis of Local Operator survey results, there are not sufficient social services available in the rural areas of the HUD San Antonio and Fort Worth service areas. Accordingly, requests are being made to the San Antonio and Fort Worth offices of HUD for the waiver of Family Self Sufficiency Programs at this time. Social services were determined to be available in the Houston area, and accordingly a self sufficiency plan will be developed for that service area.</p>					
	237	08/15/01 IA	Internal Auditing Report on Community Services Programs - Subrecipient Monitoring Function; Rpt. No. 1.04 The Community Services programs' subrecipient monitoring function for the 1999-2000 program years.	Pxx	01/04/02	
Px				04/26/02	06/30/02	
Px		7/17/02	10/31/02			
Px		8/30/02	9/15/02			
Px		10/01/02	10/04/02			
Ix		11/05/02				
<p>Issue: Develop and implement a system to track the status of reported deficiencies supported by formal standard operating procedures.</p> <p>DIVISION: Community Services</p> <p>Status: 11/05/02 - Community Services implemented an Electronic Monitoring Tracking System on October 7, 2002. CS received training from IS on October 4, 2002.</p>						

Ref. #	Report Date	Report Name	Status		Target
	Auditors	Audit Scope	Codes*	Date	Date
253	11/16/01	Monitoring Visit - HOME Program - M-00/01-SG-48-0100	Px	04/22/02	08/01/02
	HUD	On-site monitoring of the State of Texas' affordable housing programs on August 20-24, and September 6-7, 2001.	Dx	07/26/02	
			Dx	9/23/02	
			Px	10/28/02	06/30/03

Issue: The state is not providing adequate monitoring and oversight of the processing and construction activities in accordance with the applicable requirements. Additionally, the properties assisted by several of the HOME activities have insufficient or no documentation that they are in compliance with applicable standards and code requirements.

Corrective actions includes (1) reinspecting all units assisted from 1998 through present with HOME funds through the subject subrecipient to ensure compliance with code requirements, (2) putting remaining open contracts with subrecipient on hold until reinspections have been completed and violations, if any, have been corrected, and (3) advising what steps will be implemented to assure that in the future that all HOME-assisted units will be in full compliance with all program requirements.

DIVISION: HOME

Status: Letter to HUD dated 10/28/02: TDHCA disagrees with the assessment that all the properties were not in compliance with the state's housing rehabilitation (property) standards and code requirements and, as applicable, local code requirements. TDHCA continues to contend that HUD's monitoring and sampling techniques were faulty and not representative of the type and quality of projects developed by TSAHC. HUD did not review complete files, the property inspections conducted were limited to one area of the state and were not representative of other areas of the state, the inspections were conducted up to 43 months after final inspection forms were completed, and on-site reviews and homeowner interviews were not conducted by HUD monitors, but instead by non-Spanish speaking consultants in an area where bilingual skills are critical and, in some cases, homeowners were either not present or did not allow access to the interior of their homes.

TDHCA staff went on-site to TSAHC to perform follow-up reviews on the files HUD sampled (23) and to test additional files (120). An inspection form, completed prior to loan closing, was available in each project file. This documentation was provided to HUD by TDHCA letter dated 7/26/02; however, a response from HUD regarding the adequacy of this documentation has not been received.

Based on the results of the TDHCA testing referred to above, HUD's corrective action requiring TDHCA to reinspect approximately 1,426 units may not be the best use of limited resources considering the necessary staff time and cost involved, estimated to be \$386,160. Additionally, given the lapse of time, TDHCA contends that it is unrealistic to expect to be able to obtain access to reinspect the interior all these units. Regardless, TDHCA will attempt to conduct reinspections on a 7.5% sample of the TSAHC properties to provide additional assurance that the properties meet required standards. The sample selection will be more proportionate to the total number and type of properties and will include multiple areas of the state. Reinspections should be completed by the end of June 2003. After the initial reinspections are complete, TDHCA will access any identified deficiencies and develop a plan to complete any refunds or repairs, as required. TDHCA will complete all repairs at no additional cost or obligation to the initial homeowners. Federal funds may be used if allowed. Any costs found to be ineligible will be repaid to HUD from non-federal funds.

Ref. #	Report Date Auditors	Report Name Audit Scope	Status		Target
			Codes*	Date	Date
254	11/16/01 HUD	Monitoring Visit - HOME Program - M-00/01-SG-48-0100 On-site monitoring of the State of Texas' affordable housing programs on August 20-24, and September 6-7, 2001.	Px	04/22/02	08/01/02
			Px	07/26/02	12/31/02
			Px	10/02/02	
			Px	10/28/02	
<p>Issue: One of the Department's subrecipient's third-party lenders, (1) disbursed both HOME and FHA Title 1 Home Improvement Loan funds to pay a contractor, in full, to reconstruct a house that was never completed and, (2) issued checks against the FHA Title 1 Home Improvement Loan which subsequently were returned due to insufficient funds, as well as disbursing HOME funds to pay the same contractor for rehabilitation work on a second project, which was never completed.</p> <p>Corrective Actions include, in addition to resolving the preceding, identifying all applicants funded through the third-party lender and justifying related disbursements.</p> <p>DIVISION: HOME</p> <p>Status: Letter to HUD dated 10/28/02: TDHCA is not satisfied that compliance with all HOME requirements was achieved based on a review of the twenty-seven relevant files. Therefore, the properties will be inspected by monitoring staff. Based on the results, appropriate corrective action will be instituted. If allowed, federal funds may be used to bring properties in compliance with all HOME requirements.</p>					
255	11/16/01 HUD	Monitoring Visit - HOME Program - M-00/01-SG-48-0100 On-site monitoring of the State of Texas' affordable housing programs on August 20-24, and September 6-7, 2001.	Px	04/22/02	08/01/02
			Px	07/26/02	08/31/03
			Px	10/02/02	
			Px	10/28/02	
<p>Issue: Data previously entered into IDIS that was incomplete and/or inaccurate have still not been corrected.</p> <p>Corrective Actions include (1) reviewing all Project Set-up and Project Completion reports for all activities assisted from 1998 through present and making all required corrections on the forms, (2) entering all revised data into the IDIS for each activity, (3) providing a proposed timeframe for the preceding, and (4) advising HUD the steps the State plans to implement to assure in the future that all required data will be obtained and accurately entered into IDIS.</p> <p>DIVISION: HOME</p> <p>Status: Letter to HUD dated 10/28/02: An enhanced effort has been undertaken by TDHCA to initiate corrections in the IDIS system. Additional resources have been assigned to this task and additional staff will be trained on IDIS to expedite the data correction process. Staff, including senior management, attended IDIS training in Fort Worth on October 18, 2002.</p> <p>Current management is increasing the number of staff with IDIS access and revision capabilities. As more staff are trained and become familiar with IDIS, a more structured approach will be developed and progress will be made on the required corrections with priority being given to corrections with financial implications, such as balances outstanding or necessary deobligations. Management will require and review a weekly status on the tracking and number of corrections made. Approximately 200 corrections were made this week (documentation provided to HUD). We expect this progress to continue until completion. Closing activities and contracts will also become more of a priority than it has been in the past.</p> <p>A data-entry document is being developed to reduce the number of data entry problems in the future.</p>					

Ref. #	<u>Report Date</u>	<u>Report Name</u>	<u>Status</u>		<u>Target</u>
	<u>Auditors</u>	<u>Audit Scope</u>	<u>Codes*</u>	<u>Date</u>	<u>Date</u>
256	11/16/01	Monitoring Visit - HOME Program - M-00/01-SG-48-0100	Px	04/22/02	08/01/02
	HUD	On-site monitoring of the State of Texas' affordable housing programs on August 20-24, and September 6-7, 2001.	Ix	07/26/02	
			Px	10/28/02	

Issue: Under the contract-for-deed conversion program (CFD), vacant lots were purchased for which the construction of housing units was not started within 12 months of the purchase of the land, contrary to HOME rules. Additionally, based on the state's monitoring checklist for one of the recipients of the CFD assistance, it could not be determined if the applicant was income eligible.

DIVISION: HOME

Status: Letter to HUD dated 07/26/02 - TDHCA Compliance Monitors conducted a review of all related project files and found that 3 of the lots purchased are currently vacant lots. Total Questioned Costs associated with these three lots are \$45,352.79, which has been reimbursed from the subrecipient. The remaining 11 applicants reviewed were income eligible as evidenced by support documentation in the file.

Letter to HUD dated 10/28/02: TSAHC has returned \$45,352.79 for the CFD disallowed costs and the projects have been cancelled in IDIS (photocopy of check and documentation supporting IDIS corrective provided to HUD). As a result of only \$159,316 being funded of the more than two million dollars contracted and faults noted with the contract, the CFD contract activity was stopped and the contract was terminated. Inspections will be conducted on a sample of the remaining eleven CFD projects. Additional information and a necessary course of action, if applicable, will be developed once the inspections are completed.

Ref. #	Report Date Auditors	Report Name Audit Scope	Status		Target
			Codes*	Date	Date
257	11/16/01 HUD	Monitoring Visit - HOME Program - M-00/01-SG-48-0100 On-site monitoring of the State of Texas' affordable housing programs on August 20-24, and September 6-7, 2001.	Px	04/22/02	08/01/02
			Px	07/26/02	10/15/02
			Px	09/26/02	12/15/02
			Ix	10/28/02	
Issue: It could not be determined that all required lower-tier subcontracts were executed between the applicable parties. Additionally, there was no documentation of an executed a subcontract with another third party for provider fees of \$500 per case. It could not be determined what specifically was covered by the fees or whether the fees were cost-reasonable based on the services provided.					
Corrective Actions include (1) execution of written agreements between the subrecipient and third-party lenders in accordance with regulations, (2) no further funds be disbursed until documentation of that all written agreements between all parties have been executed and received and (3) the State obtaining assurance that service or provider fees are reasonable.					
DIVISION: HOME					
Status: Letter to HUD dated 10/28/02: An executed contract between HOME, Inc. and TSAHC for services provided in connection with expired HOME Contract 536269 has been provided to HUD. TSAHC does not have copies of any contracts which may have been executed between HOME, Inc. and its lower-tier nonprofits providers, Proyecto Azteca and Middle Rio Grande Valley Opportunities Industrial Center (RGVOIC).					
All TSAHC contracts are currently expired and TDHCA will no longer provide HOME funding to TSAHC. TSAHC has identified the forty-two (42) activities that were set-up, however, to date have had no HOME funds requested or disbursed. These funds have been cancelled in IDIS and the funds have been deobligated (IDIS documentation provided to HUD).					
TDHCA will ensure that all future contracts include provisions to require written agreements for third-party lenders or lower-tier providers., as required by the HOME Policy and Procedure Manual effective March 1, 2002. Program administrators and the Compliance Division will both ensure that subrecipients execute the required written agreements throughout the duration of the contract and through the monitoring process.					

258	11/16/01 HUD	Monitoring Visit - HOME Program - M-00/01-SG-48-0100 On-site monitoring of the State of Texas' affordable housing programs on August 20-24, and September 6-7, 2001.	Pxx	04/26/02	06/30/02
			Px	07/26/02	
			Px	10/02/02	
			Px	10/28/02	
Issue: There is a prohibited clause in the Land Use Restriction Agreement (LURA) executed between one of the Department's subrecipients and a Texas limited partnership ("Owner") whereby occupancy requirements could be waived contrary to program regulations unless an exception is granted by HUD for specified reasons.					
Corrective Actions include (1) amending the LURA to remove the prohibited clause, (2) reviewing all other LURAs or similar documents from 1998 through present to assure that no prohibited clauses are in the agreements and, if so, make appropriate corrections and (3) reviewing all LURAs or similar documents in the future to ensure that no prohibited clauses are included.					
DIVISION: HOME					
Status: Letter to HUD dated 10/28/02: TDHCA General Counsel has advised TSAHC to entirely remove the prohibited clause from the Keystone LURA and all other LURAs which contain the prohibited clause. TSAHC is coordinating the proposed LURA amendment with the owners and expects that the owners will reluctantly agree to the proposed revisions. TDHCA is awaiting copies of the executed amended LURAs from TSAHC. Copies will be provided to HUD upon receipt from TSAHC.					

Ref. #	Report Date Auditors	Report Name Audit Scope	Status		Target
			Codes*	Date	Date
260	11/16/01	Monitoring Visit - HOME Program - M-00/01-SG-48-0100	Px	04/22/02	08/01/02
			Px	06/27/02	01/31/03
	HUD	On-site monitoring of the State of Texas' affordable housing programs on August 20-24, and September 6-7, 2001.	Px	10/02/02	
			Px	10/28/02	
<p>Issue: Instances were noted where there was no documentation that newly-constructed units (single-family and multi-family) are in compliance with the current edition of the Model Energy Code (MEC) published by the Council of American Building Officials. Additionally, it was noted that a HOME funded apartment complex is not in compliance with Section 504 (handicapped accessibility) relative to units that are accessible for persons with visual and/or hearing impairments.</p> <p>Corrective Actions include (1) reviewing all applicable files from 1998 through present to verify compliance with MEC and 504 requirements, (2) increasing the number of accessible units to comply with 504, and (3) providing a proposal on how the state intends to comply with the 504 sensory impairment requirement.</p> <p>DIVISION: HOME</p> <p>Status: Letter to HUD dated 10/28/02: TSAHC is currently conducting a file review of every loan file to determine which projects were new construction versus rehabilitation and compliance with the Model Energy Code. The results of this review, anticipated Nov. 1, 2002, will be provided to TDHCA upon completion and TDHCA will assess the results upon receipt. TSAHC is working with Keystone Apartments to ensure that the correct number of units are accessible to person with disabilities. Additionally, TDHCA has developed a Request for Proposal (RFP) for Section 504 and Fair Housing inspections which is currently under review by the Disability Advisory Committee of the TDHCA Board of Directors. A response is expected by TDHCA in the first week of November. Once reviewed and approved, it will be posted and distributed.</p>					
272	11/30/01	Report to Management - Year ended August 31, 2001	Px	07/22/02	08/31/02
			Px	09/11/02	10/15/02
	Deloitte & Touche	Annual independent audit of the Department's general purpose financial statements	lx	10/25/02	
<p>Issue: The accounting for the Texas Housing Trust Fund is split between the governmental and proprietary funds of TDHCA. Account for the HTF in one fund or record an operating transfer from the general fund to the enterprise fund.</p> <p>DIVISION: Accounting and Finance</p> <p>Status: 10/25/02 - Financial Services has evaluated the Housing Trust Fund Loan portfolio and identified those loans funded with General Revenue funds. Appropriate journal entries have been processed to the accounting systems.</p>					

Ref. #	Report Date Auditors	Report Name Audit Scope	Status		Target
			Codes*	Date	Date
274	11/30/01	Report to Management - Year ended August 31, 2001	Px	07/11/02	10/01/02
	Deloitte & Touche	Annual independent audit of the Department's general purpose financial statements	Px	10/25/02	10/31/02

Issue: TDHCA does not accrue for invoices received subsequent to one month after year-end that relate to the preceding fiscal year. As a result, accounts payable and the related expenditures may be understated at year-end. Consider alternatives, including a threshold of \$100,000 for large-dollar invoices received after September 30 to be reviewed for consideration.

DIVISION: Accounting and Finance

Status: 07/31/02 - The Financial Services Division will employ a new Policy in FY 2002 that will give consideration to the accrual of invoices greater than \$100,000 received subsequent to thirty days after fiscal year year end to more accurately reflect expenditures. (Previously, recognition of accruals was limited to consideration of invoices received within thirty days of fiscal year end.)

10/25/02 - Accounting operations will be run queries from USAS to identify any additional accruals that need to be made through 10/25/02.

276	11/30/01	Report to Management - Year ended August 31, 2001	Px	07/10/02	12/31/02
	Deloitte & Touche	Annual independent audit of the Department's general purpose financial statements	Px	10/25/02	12/31/02

Issue: Repeat Issue - In June 1999, Governmental Accounting Standards Board issued its Statement No. 34, "Basic Financial Statements - and Management's Discussion and Analysis - for State and Local Governments" that will require significant changes to the way that TDHCA collects, records and reports its financial information and may require significant research and preparation prior to implementation.

DIVISION: Accounting and Finance

Status: 10/25/02 - Management has previously reported steps taken and progress made. TDHCA's auditors, Deloitte & Touche, will begin their fieldwork on 10/28/2002. During their fieldwork, they will evaluate the progress and incorporate their conclusions in the audit report to be issued by December 31, 2002.

Ref. #	Report Date Auditors	Report Name Audit Scope	Status		Target
			Codes*	Date	Date
264	01/07/02	Controls Over Single Family Loans; Report No. 1.05	Px	04/22/02	05/01/02
			Px	07/22/02	08/31/03
	IA	Controls over single family loans serviced by the Department.	Px	10/02/02	
			Px	10/25/02	06/15/03
<p>Issue: HOME program management should develop and implement processes to ensure that all required/necessary loan documentation is acquired to adequately support and protect the Department's interests in HAP loans. Strategies should be developed to identify all historical HAP loans and to accumulate documentation to support all outstanding balances.</p> <p>DIVISION: HOME</p> <p>Status: 7/31/02 - Management has reported that the new HOME Program Policy and Procedure manual, implemented effective 3/1/2002, requires contract administrators to submit all necessary loan documents in connection with homebuyer assistance loans funded/reimbursed with HOME funds. In conjunction with the implementation of the new manual, a contract file documentation form and contract close-out checklist were developed and implemented for internal review and control procedures to ensure documentation and a control mechanism.</p> <p>In addition, through the implementation of the new policy manual, effective 3/1/02, a contract close-out process has been implemented for designated staff review of all homebuyer assistance loans that have been funded by the HOME Program to ensure the receipt of proper documentation and to provide a control mechanism.</p> <p>10/25/02 - HOME staff has begun review of all historical files for presence of documentation. Once review is complete, HOME staff will determine method of retrieving loans documents or other action as required. It is intended that an interface with the Mitas system can be developed to help track loan documents.</p>					
266	01/07/02	Controls Over Single Family Loans; Report No. 1.05	Px	04/22/02	07/01/02
			Px	07/22/02	11/01/02
	IA	Controls over single family loans serviced by the Department.	Px	11/05/02	02/01/03
<p>Issue: The Department should develop and implement formal policies and procedures for the periodic review of delinquent program loans, related collection efforts and specific criterion to be met for writing-off loan balances.</p> <p>DIVISION: Loan Administration</p> <p>Status: 11/05/02 - Loan Administration has started to draft Standard Operating Procedures for the delinquent Single Family Loans. Due to the uniqueness of the programs funded under Single Family, LA continues to meet with the originating program area for guidance.</p>					

Ref. #	Report Date Auditors	Report Name Audit Scope	Status		Target Date
			Codes*	Date	
268	02/12/02	Report on Compliance with Requirements Applicable to Each Major Program and on Internal Control Over Compliance in Accordance with OMB Circular A-133.	Px	04/22/02	08/01/02
	KPMG	Statewide Federal Single Audit for FYE August 31, 2001 (SAO contract with KPMG).	Px	07/31/02	10/31/02
<p>Issue: There is a lack of documentation to support soft costs incurred by subrecipients. Known questioned costs - \$29,400. Estimated questioned costs - \$2,314,574.</p> <p>DIVISION: HOME</p> <p>Status: Letter to HUD dated October 28, 2002: Staff has researched these issues and is developing an acceptable process to clear the findings. There are differences in interpretation regarding the adequacy of acceptable documentation to resolve this issue that staff is working through. TDHCA anticipates providing its subrecipients appropriate guidance through amendments to the 2002 Implementation Manual. A partial summary of research conducted to date was provided to HUD on 10/28/02 and additional information will be forwarded by the end of December 2002.</p>			Px	10/02/02	
			Px	10/25/02	
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277	07/23/02	Payroll Audit; Report No. 2.07	Px	09/30/02	10/31/02
	IA	FY 2002 to date (5/17/02) payroll transactions.	Px	11/05/02	12/31/02
<p>Issue: Management should take appropriate action to strengthen USPS access controls.</p> <p>DIVISION: Accounting and Finance</p> <p>Status: 11/05/02 - Security access was changed in July 2002 for Payroll Specialist and back-up employee to "payroll profile". These individuals no longer have "master profile" access to USPS. Written policies pertaining to access to USPS will be developed and included in the payroll SOP.</p>					
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278	07/23/02	Payroll Audit; Report No. 2.07	Px	09/30/02	10/31/02
	IA	FY 2002 to date (5/17/02) payroll transactions.	Ix	11/05/02	
<p>Issue: Responsibilities associated with authorizing, processing, recording and reviewing payroll transactions be separated among employees whenever possible. Increased supervision and/or appropriate compensating controls should be put into place in instances where there may be limited opportunities to segregate responsibility</p> <p>DIVISION: Accounting and Finance</p> <p>Status:</p>					

*Texas Department of Housing and
Community Affairs*

*Prior Audit Issues Reported as Implemented
at October 2002 Board Meeting*

Texas Department of Housing and Community Affairs - Prior Audit Issues Reported as Implemented at October 2002 Board Meeting

Ref. #	Report Date Auditors	Report Name Audit Scope	Status		Target
			Codes*	Date	Date
196	12/01/00 SAO	An Audit Report on the Texas Department of Housing and Community Affairs, Report No. 01-009 Applications submitted and Contracts awarded by the Department of the LIHTC HOME and HTF Programs from FY 1995 - 1999. Tests of financial information, needs assessment procedures & related data, review of performance measures & Dept.-wide needs assessment.	Px	01/05/01	09/30/01
			Px	11/29/01	03/31/02
			Px	04/25/02	6/30/02
			Pxx	7/10/02	9/30/02
			lx	9/27/02	
<p>Issue: Develop procedures to ensure compliance with Government Code that states, "a fee charged by the department to an applicant for a low income housing tax credit may not be excessive and must reflect the department's actual costs in processing the applications and providing copies of documents in connection with the application process."</p> <p>Division: LIHTC & Accounting</p> <p>Status: 09/27/02 - Payroll cost information was applied to the estimated labor hours to determine the total estimated labor costs for the 2001 Application Cycle. The estimated labor costs were compared with the total application fees charged and collected for processing 2001 applications. Results show that the application fees charged to applicants were not excessive.</p> <p>To ensure that actual payroll hours are accumulated to assess the reasonableness of application fees in the future, a standard operating procedure has been developed, effective October 1, 2002, requiring employees that process LIHTC applications to account for their actual time doing so.</p>					
233	08/15/01 IA	Internal Auditing Report on Community Services Programs - Subrecipient Monitoring Function; Rpt. No. 1.04 The Community Services programs' subrecipient monitoring function for the 1999-2000 program years.	Pxx	01/04/02	
			Pxx	04/26/02	06/30/02
			Px	07/15/02	10/31/02
			Px	09/11/02	09/16/02
			lx	10/01/02	
<p>Issue: Community Services management is not recognizing other monitoring related activities being performed within the Department and the results of those activities as procedures and results that could be relied upon to assist in accomplishing its monitoring responsibilities and for use in its risk assessment processes.</p> <p>Division: Community Services</p> <p>Status: 10/01/02 - Community Services inquires to other program areas and the Compliance Division in connection with its monitoring visits and contract awards to determine if there are any performance issues that should be considered.</p>					

Ref. #	Report Date Auditors	Report Name Audit Scope	Status		Target
			Codes*	Date	Date
275	11/30/01	Report to Management - Year ended August 31, 2001	Px	07/11/02	08/31/03
	Deloitte & Touche	Annual independent audit of the Department's general purpose financial statements	Ix	09/30/02	
<p>Issue: TDHCA's existing financial information systems structure currently lacks an enterprise wide, integrated scope to support TDHCA's financial management needs. The structure includes the utilization of multiple databases which results in significant manual processing, reporting, and data interface by TDHCA personnel which may result in inefficient use of personnel resources and compromised data integrity.</p> <p>Division: Accounting and Finance</p> <p>Status: 07/31/02 - Management reports that TDHCA considers CSAS to be its official system of record, which allows for elimination of duplicate systems and manual entry through the phasing out of its FOXPRO financial Management Database. As of July 2002, TDHCA has vastly improved PeopleSoft features related to procurement, purchase order, matching and reporting. Future plans include E-Procurement and interfaces with the Department's central database in the Fiscal Year 2003.</p> <p>9/30/02 - Management believes that the actions referred to above adequately satisfies the auditor's concerns to preclude a repeat comment and, accordingly, considers this issue to be implemented.</p>					
271	02/12/02	Report on Compliance with Requirements Applicable to Each Major Program and on Internal Control Over Compliance in Accordance with OMB Circular A-133.	Pxx	04/26/02	08/31/02
	KPMG	Statewide Federal Single Audit for FYE August 31, 2001 (SAO contract with KPMG).	Px	07/15/02	12/31/02
<p>Issue: \$199,543 of energy assistance funds were questioned by KPMG as the results of an independent audit of one of Department's subgrantees that identified embezzled funds over a period of five years. TDHCA reported the questioned costs to the appropriate funding Federal agencies.</p> <p>Division: LIHEAP</p> <p>Status: 10/01/02 - On 9/25/02, the Department received a reimbursement check of \$199,543 from the subrecipient. This issue is considered resolved/implemented as these funds will be used to satisfy the questioned costs relating to the LIHEAP and Weatherization programs.</p>					
279	07/23/02	Payroll Audit; Report No. 2.07	Px	09/05/02	
	IA	FY 2002 to date (5/17/02) payroll transactions.	Ix	09/26/02	
<p>Issue: The Department's needs to (1) comply with its internal policy of having employees take time off for FLSA overtime hours accrued, (2) adopt a recently proposed policy by the Human Resources Division whereby an employee is required to take accumulated FLSA overtime hours prior to taking accumulated annual leave time, and (3) establish a policy whereby an employee is required to take time off for FLSA overtime hours accrued prior to being transferred to another division.</p> <p>Division: Human Resources</p> <p>Status: 9/5/02 - The TDHCA Executive Director has instructed all Senior Staff to ensure that we follow Personnel Policies and Procedures, Overtime Worked and Compensatory Leave Policy.</p> <p>9/26/02 - New Personnel Policies and Procedures were implemented that addresses the issues noted in this finding.</p>					

RESOLUTION NUMBER 02-056

RESOLUTION OF THE GOVERNING BOARD STATING BOARD POLICY ON THE SEPARATION OF BOARD AND STAFF RESPONSIBILITIES IN ACCORDANCE WITH CHAPTER 2306 OF THE TEXAS GOVERNMENT CODE

WHEREAS, the Texas Department of Housing and Community Affairs, a public and official governmental agency of the State of Texas, (the "Department") was created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code, as amended; and

WHEREAS, Texas Government Code, Section 2306.051 "Separation of Responsibilities" states: "The board shall develop and implement policies that clearly separate the policy-making responsibilities of the board and the management responsibilities of the director and staff of the department"; NOW, THEREFORE,

BE IT RESOLVED BY THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS:

Section 1 – Board Policy:

- a) That it is the policy of the Governing Board that the Board exercises policy-making responsibilities and the director and staff of the Department exercise management responsibilities;
- b) That Chapter 2306 of the Texas Government Code defines the separate powers and duties of the Governing Board, Director, and Department, including the following:
 - i) Section 2306.052 Director's Powers and Duties;
 - ii) Section 2306.0521 Organizational Flexibility of Department;
 - iii) Section 2306.053 Department Powers and Duties;
 - iv) Section 2306.1112 Executive Award and Review Advisory Committee;
 - v) Section 2306.112 Preparation and Content of Annual Budget;
 - vi) Section 2306.113 Board Consideration of Annual Budget;
 - vii) Chapter 2306, Subchapter G. Housing Finance Division: General Powers and Duties of Board;
 - viii) Chapter 2306, Subchapter H. Housing Finance Division: General Powers and Duties of Department;
 - ix) Section 2306.67022 Qualified Allocation Plan; Manual; and
 - x) Section 2306.6724 Deadlines for Allocation of Low Income Housing Tax Credits.

Section 2 -- Effective Date. That this Resolution shall be in full force and effect from and upon its adoption.

Section 3 – Notice of Meeting. That written notice of the date, hour, and place of the meeting of the Board at which this Resolution was considered and of the subject of this Resolution was furnished to the Secretary of State and posted on the Internet for at least seven (7) days preceding the convening of such meeting; that during regular office hours a computer terminal located in a place convenient to the public in the office of the Secretary of State was provided such that the general public could view such posting; that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof was discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended; and that written notice of the date, hour, and place of the meeting of the Board and of the subject of this Resolution was published in the *Texas Register* at least seven (7) days preceding the convening of such meeting, as required by the Administrative Procedure and Texas Register and Administrative Code Acts, Chapters 2001 and 2002, Texas Government Code, as amended. Additionally, all of the materials in the possession of the Department relevant to the subject of this Resolution were sent to interested persons and organizations, posted on the Department's website, made available in hard-copy at the Department, and filed with the Secretary of State for

publication by reference in the *Texas Register* not later than seven (7) days before the meeting of the Board, as required by Section 2306.032, Texas Government Code, as amended.

PASSED AND APPROVED this 14th day of November, 2002.

Chair of the Governing Board

[SEAL]

ATTEST:

Secretary to the Board

RESOLUTION NUMBER 02-057

RESOLUTION OF THE GOVERNING BOARD STATING BOARD POLICY ON RULEMAKING PROCEDURES AND PUBLIC INPUT IN ACCORDANCE WITH CHAPTERS 2306 AND 2001 OF THE TEXAS GOVERNMENT CODE

WHEREAS, the Texas Department of Housing and Community Affairs, a public and official governmental agency of the State of Texas, (the "Department") was created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code, as amended; and

WHEREAS, Texas Government Code, Section 2306.1711 "Rulemaking Procedures for Certain Programs" states that the Department shall adopt rules outlining formal rulemaking procedures for the low income housing tax credit program and the multifamily housing mortgage revenue bond program in accordance with Chapter 2001 and shall provide for public input; NOW, THEREFORE,

BE IT RESOLVED BY THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS:

Section 1 -- Board Policy:

- a) That it is the policy of the Governing Board that the Department shall follow the rulemaking procedures of the Administrative Procedure Act, Chapter 2001 of the Texas Government Code. The Administrative Procedure Act provides for interested parties to petition the Department to request the adoption of a rule (Section 2001.021); notice requirements and deadlines (Section 2001.023); and for public comment and a hearing (Section 2001.029), as required by Section 2306.1711, Texas Government Code;
- b) That the Department shall provide for public input to the Department, as provided for in Chapter 2306, Texas Government Code, including the following:
 - i) Section 2306.032 Board Meetings;
 - ii) Section 2306.066 Information and Complaints;
 - iii) Section 2306.0661 Public Hearings;
 - iv) Section 2306.0723 Public Participation Requirements;
 - v) Section 2306.077 Internet Availability;
 - vi) Section 2306.6717 Public Information and Hearings; and
 - vii) Section 2306.6732 Public Information.

Section 2 -- Effective Date. That this Resolution shall be in full force and effect from and upon its adoption.

Section 3 -- Notice of Meeting. That written notice of the date, hour, and place of the meeting of the Board at which this Resolution was considered and of the subject of this Resolution was furnished to the Secretary of State and posted on the Internet for at least seven (7) days preceding the convening of such meeting; that during regular office hours a computer terminal located in a place convenient to the public in the office of the Secretary of State was provided such that the general public could view such posting; that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof was discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended; and that written notice of the date, hour, and place of the meeting of the Board and of the subject of this Resolution was published in the *Texas Register* at least seven (7) days preceding the convening of such meeting, as required by the Administrative Procedure and Texas Register and Administrative Code Acts, Chapters 2001 and 2002, Texas Government Code, as amended. Additionally, all of the materials in the possession of the Department relevant to the subject of this Resolution were sent to interested persons and organizations, posted on the Department's website, made available in hard-copy at the Department, and filed with the Secretary of State for

publication by reference in the *Texas Register* not later than seven (7) days before the meeting of the Board, as required by Section 2306.032, Texas Government Code, as amended.

PASSED AND APPROVED this 14th day of November, 2002.

Chair of the Governing Board

[SEAL]

ATTEST:

Secretary to the Board

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
BOARD OF DIRECTORS
NOVEMBER 14, 2002**

**RESOLUTION APPROVING DOCUMENTS RELATING TO THE ISSUANCE OF
RESIDENTIAL MORTGAGE REVENUE BONDS SERIES 2002A, SERIES 2002B,
SERIES 2002C AND OTHER RELATED MATTERS
(PROGRAM 59)**

The structure of the Department's Residential Mortgage Revenue Bonds Series 2002 A/B/C issue is substantially complete. The Series 2002A/B/C bonds will create lendable mortgage funds of approximately \$40,000,000 upon closing in December 2002 and \$75,300,000 upon refunding the Convertible Option Bonds in 2003.

The Department's remaining Year 2002 volume cap allocation for single family bonds equals approximately \$117,726,826. The Department issued \$37.5 million of its Year 2002 volume cap in June 2002. The Department's total volume cap for Year 2002 equaled approximately \$156 million. The following table outlines this pending bond issue's structure.

Program	Series	Tax Plan	Amount	Purpose
59	2002A	One	\$ 42,310,000	Tax-Exempt New Money
TBD	2002B	Two	\$ 75,090,000	Convertible Option Bonds
59	2002C	Two	TBD	Tax-Exempt New Money
Aggregate Total			<u>\$117,400,000</u>	

The new mortgages will be assisted and unassisted low rate mortgages with interest rates approximately 50 - 75 basis points below mortgage market rates at the time of pricing and will be securitized. The Department incorporated premium bonds into the bond structure for purposes of providing downpayment assistance. The mortgages will be marketed to very low, low and moderate income residents of Texas. If authorized, the bonds will be sold in November and December 2002 and the bond closing will occur approximately seven days subsequent to second bond pricing.

The attached resolution authorizes the issuance of the bonds and approves the bond documents in substantially completed form.

RECOMMENDATION

The Board approve the attached resolution authorizing the issuance of Residential Mortgage Revenue Bonds, Series 2002A, Series 2002B, and Series 2002C.

Resolution No. 02-62

RESOLUTION AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS RESIDENTIAL MORTGAGE REVENUE BONDS, SERIES 2002A, RESIDENTIAL MORTGAGE REVENUE BONDS, SERIES 2002B AND RESIDENTIAL MORTGAGE REVENUE BONDS, SERIES 2002C; AUTHORIZING THE APPROVAL OF THE FORM AND SUBSTANCE OF THE RESPECTIVE SERIES SUPPLEMENTS, THE MORTGAGE ORIGINATION AGREEMENT, THE PROGRAM SUPPLEMENT, THE PROGRAM GUIDELINES, THE SERVICING AGREEMENT, THE COMPLIANCE AGREEMENT, THE FUNDING AGREEMENT, THE DEPOSITORY AGREEMENT, THE BOND PURCHASE AGREEMENTS, THE CONTINUING DISCLOSURE AGREEMENTS, AND THE PRELIMINARY AND FINAL OFFICIAL STATEMENTS FOR THE BONDS; AUTHORIZING THE EXECUTION OF DOCUMENTS AND INSTRUMENTS NECESSARY OR CONVENIENT TO CARRY OUT THE RESIDENTIAL MORTGAGE REVENUE BOND PROGRAM; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, the Texas Department of Housing and Community Affairs (the "Department") has been duly created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code (the "Act"), as amended from time to time, for the purpose of providing a means of financing the costs of residential ownership, development and rehabilitation that will provide decent, safe and sanitary housing for individuals and families of low and very low income and families of moderate income (as described in the Act as determined by the Governing Board of the Department (the "Governing Board") from time to time) at prices they can afford; and

WHEREAS, the Act authorizes the Department: (a) to acquire, and to enter into advance commitments to acquire, mortgage loans (including participations therein) secured by mortgages on residential housing in the State of Texas (the "State"); (b) to issue its bonds, for the purpose of obtaining funds to make and acquire such mortgage loans or participations therein, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, receipts or resources of the Department, including the revenues and receipts to be received by the Department from such mortgage loans or participations therein, and to mortgage, pledge or grant security interests in such mortgages, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds; and

WHEREAS, the Act further authorizes the Department to issue its revenue bonds for the purpose of refunding any bonds theretofore issued by the Department or the Texas Housing Agency, its predecessor (the "Agency"), under such terms, conditions and details as shall be determined by the Governing Board; and

WHEREAS, the Agency or the Department, as its successor, has, pursuant to and in accordance with the provisions of the Act, issued, sold and delivered or authorized the issuance, sale and delivery of prior series of its Residential Mortgage Revenue Bonds pursuant to the Residential Mortgage Revenue Bond Trust Indenture dated as of November 1, 1987 (as amended by supplemental indentures numbered First through Twenty-Fourth and any amendments thereto, collectively, the "RMRB Indenture") between the Department, as successor to the Agency, and Bank One, National Association, as successor trustee (the "Trustee"), to implement the various phases of the Agency's (now the Department's) Residential Mortgage Revenue Bond Program; and

WHEREAS, the Governing Board has authorized the issuance of its Texas Department of Housing and Community Affairs Single-Family Mortgage Revenue Refunding Tax-Exempt Commercial Paper Notes, Series A (AMT) (the "Series A Notes") in order to refund certain residential mortgage revenue bonds and

single family mortgage revenue bonds of the Department subject to redemption as a result of the receipt by the Department of prepayments on the mortgage loans securing such bonds; and

WHEREAS, the Governing Board has determined to authorize the issuance of the Department's Residential Mortgage Revenue Bonds, to be known as (i) its Residential Mortgage Revenue Bonds, Series 2002A (the "Series 2002A Bonds"); (ii) its Residential Mortgage Revenue Bonds, Series 2002B (the "Series 2002B Bonds"); and (iii) its Residential Mortgage Revenue Bonds, Series 2002C (the "Series 2002C Bonds") (collectively, the "Series 2002 Bonds") pursuant to the RMRB Indenture for the purpose of providing funds to make and acquire qualifying mortgage loans (including participations therein through the purchase of mortgage-backed securities ("Mortgage Certificates") issued and guaranteed by Fannie Mae ("Fannie Mae"), Federal Home Loan Mortgage Corporation ("Freddie Mac") or Government National Mortgage Association ("Ginnie Mae")) (referred to herein as "Mortgage Loans"), to fund capitalized interest and to pay costs of issuance of the Series 2002 Bonds; and

WHEREAS, the Governing Board desires to authorize the execution and delivery of the Twenty-Fifth Supplemental Residential Mortgage Revenue Bond Trust Indenture (the "Twenty-Fifth Series Supplement") in substantially the form attached hereto relating to the Series 2002A Bonds, the Twenty-Sixth Supplemental Residential Mortgage Revenue Bond Trust Indenture (the "Twenty-Sixth Series Supplement") in substantially the form attached hereto relating to the Series 2002B Bonds, and the Twenty-Seventh Supplemental Residential Mortgage Revenue Bond Trust Indenture (the "Twenty-Seventh Series Supplement") in substantially the form attached hereto relating to the Series 2002C Bonds; and

WHEREAS, the Twenty-Fifth Series Supplement, the Twenty-Sixth Series Supplement and the Twenty-Seventh Series Supplement are hereinafter collectively referred to as the "Supplemental Indentures"; and

WHEREAS, the Governing Board desires to authorize the execution and delivery of the Mortgage Origination Agreement (the "Mortgage Origination Agreement") in substantially the form attached hereto between the Department and certain mortgage lenders (the "Mortgage Lenders") participating in the Department's home loan purchase programs designated as Bond Program No. 59 and No. 59A (the "Program") setting forth the terms and conditions upon which Mortgage Loans will be purchased by the Department; and

WHEREAS, in connection with the Mortgage Origination Agreement, the Governing Board desires to authorize the execution and delivery of the Program Supplement (the "Program Supplement") between the Department and Mortgage Lenders and the Program Guidelines (the "Program Guidelines") in substantially the form attached hereto, setting forth the terms and conditions upon which Mortgage Loans will be purchased by the Department and the terms of such Mortgage Loans; and

WHEREAS, under the Program Guidelines, 100% of the funds available under the Program will be available to Mortgage Lenders participating in a controlled, first-come, first-served reservation system, with approximately 50% of such funds reserved for use in thirteen geographic regions for up to three months and allocated to each region pro rata based on the region's population, 30% of such funds are expected to finance Mortgage Loans that include down payment and closing cost assistance to qualified eligible borrowers having a family income not exceeding 60% of applicable median family income (the "Assisted Mortgage Loans"); and

WHEREAS, the Governing Board has further determined that the Department should enter into one or more Bond Purchase Agreements relating to the sale of the Series 2002 Bonds (collectively, the "Bond Purchase Agreements") with Bear, Stearns & Co. Inc., as representative of the group of underwriters listed on Exhibit A to this Resolution (the "Underwriters"), and/or Fannie Mae setting forth certain terms and conditions upon which the Underwriters and/or Fannie Mae will purchase the Series 2002 Bonds from the Department and the Department will sell the Series 2002 Bonds to the Underwriters and/or Fannie Mae; and

WHEREAS, the Governing Board desires to authorize the execution and delivery of a Program Administration and Servicing Agreement (the "Servicing Agreement") in substantially the form attached hereto setting forth the terms under which Countrywide Home Loans, Inc., as master servicer (the "Servicer"), will review, acquire, package and service the Mortgage Loans and sell the Mortgage Certificates to the Department; and

WHEREAS, the Governing Board desires to authorize the execution and delivery of a Compliance Agreement (the "Compliance Agreement") in substantially the form attached hereto setting forth the terms under which Countrywide Home Loans, Inc., as compliance agent (the "Compliance Agent"), will review and examine certain documents submitted by the Mortgage Lenders in connection with the Mortgage Loans to ensure compliance with the requirements of the Department set forth therein; and

WHEREAS, the Governing Board desires to authorize the execution and delivery of a Funding Agreement (the "Funding Agreement") in substantially the form attached hereto setting forth the terms under which the Servicer will advance funds to the Department to be used to pay a portion of the costs of issuance of the Series 2002 Bonds; and

WHEREAS, the Governing Board has been presented with a draft of a preliminary official statement to be used in the public offering of the Series 2002A Bonds, and a draft of a preliminary official statement to be used in the public offering of the Series 2002B Bonds and the Series 2002C Bonds (collectively, the "Preliminary Official Statements") and the Governing Board of the Department desires to approve such Preliminary Official Statements in substantially the forms attached hereto; and

WHEREAS, the Governing Board has determined to authorize the execution and delivery of the Fifth Supplement to Amended and Restated Depository Agreement (the "Depository Agreement") in substantially the form attached hereto relating to the Series 2002 Bonds by and among the Department, the Trustee and the Texas Treasury Safekeeping Trust Company to provide for the holding, administering and investing of certain moneys and securities relating to the Series 2002 Bonds; and

WHEREAS, the Governing Board desires to authorize the execution and delivery of the Continuing Disclosure Agreements (collectively, the "Continuing Disclosure Agreements") in substantially the forms attached hereto between the Department and the Trustee; and

WHEREAS, the Governing Board has determined to authorize the investment of the proceeds of the Series 2002 Bonds and any other amounts held under the RMRB Indenture with respect to the Series 2002 Bonds in one or more guaranteed investment contracts (the "GICs") or such other investments as the authorized representatives named herein may approve; and

WHEREAS, the Governing Board desires to provide for the sale of all or a portion of the Series 2002A Bonds at a premium in order to make funds available for down payment and closing cost assistance associated with Assisted Mortgage Loans; and

WHEREAS, the Governing Board desires to approve the use of an amount not to exceed \$1,000,000 of Department funds to pay a portion of the costs of issuance of the Series 2002 Bonds or capitalized interest; and

WHEREAS, the Governing Board desires to approve the use of funds in the 1998/1999A Special Mortgage Loan Fund, the 2001 A/B/C Mortgage Loan Account and the 2001 D/E Mortgage Loan Account in an amount not to exceed \$5,000,000 for the purpose of providing 0% loan funds for the Program; and

WHEREAS, pursuant to Section 2306.142(l) of the Texas Government Code, as amended, the Governing Board hereby finds that (i) the Series 2002 Bonds are structured in a manner that serves the credit needs of borrowers in underserved economic and geographic submarkets in the State of Texas; (ii) such

borrowers have access to Expanded Approval Mortgage Loan funds, which were made available by the Department prior to September 1, 2002; and (iii) the Department will continue to make additional funds and programs available for borrowers in underserved economic and geographic submarkets in future bond issues in Fiscal Year 2003 and subsequent Fiscal Years; and

WHEREAS, the Governing Board desires to approve the forms of the Supplemental Indentures, the Bond Purchase Agreements, the Preliminary Official Statements, the Depository Agreement, the Mortgage Origination Agreement, the Program Supplement, the Servicing Agreement, the Compliance Agreement, the Funding Agreement, the Continuing Disclosure Agreements and the Program Guidelines, in order to find the form and substance of such documents to be satisfactory and proper and the recitals contained therein to be true, correct and complete; and has determined to implement the Program in accordance with such documents by authorizing the issuance of the Series 2002 Bonds, the execution and delivery of such documents and the taking of such other actions as may be necessary or convenient to carry out the Program; NOW, THEREFORE,

BE IT RESOLVED BY THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS:

ARTICLE I
ISSUANCE OF BONDS; APPROVAL OF DOCUMENTS

Section 1.1--Issuance, Execution and Delivery of the Series 2002 Bonds. That the issuance of the Series 2002 Bonds is hereby authorized, all under and in accordance with the RMRB Indenture, and that, upon execution and delivery of the Supplemental Indentures, the authorized representatives named herein are each hereby authorized to execute, attest and affix the Department's seal to the Series 2002 Bonds and to deliver the Series 2002 Bonds to the Attorney General of Texas for approval, the Comptroller of Public Accounts of the State of Texas (the "Comptroller") for registration and the Trustee for authentication, and thereafter to deliver the Series 2002 Bonds to or upon the order of the Underwriters and/or Fannie Mae pursuant to the Bond Purchase Agreements.

Section 1.2--Authority to Approve Form of Documents, Determine Interest Rates, Principal Amounts, Maturities and Prices. That the Chairman of the Governing Board or the Executive Director of the Department (i) are hereby authorized and empowered to determine which series of the Series 2002 Bonds shall be issued on a taxable or a tax-exempt basis and to determine which series of the Series 2002 Bonds will be issued as new money bonds, refunding bonds, or governmental purpose bonds (or any combination thereof) and (ii) are hereby authorized and empowered, in accordance with Chapter 1371, Texas Government Code, as amended, to fix and determine the interest rates, principal amounts and maturities of, and the prices at which the Department will sell to the Underwriters and/or Fannie Mae, the Series 2002 Bonds, all of which determinations shall be conclusively evidenced by the execution and delivery by the Chairman of the Governing Board or the Executive Director of the Department of the Supplemental Indentures, the Depository Agreement, the Bond Purchase Agreements and the Official Statements; provided, however, that: (a) the net effective interest rate on the Series 2002A Bonds shall not exceed 6.50% per annum; the net effective interest on the Series 2002B Bonds shall not exceed 5.00% per annum; and the net effective interest rate on the Series 2002C Bonds shall not exceed 6.50% per annum; (b) the aggregate principal amount of the Series 2002 Bonds shall not exceed \$45,000,000 for the Series 2002A Bonds, \$80,000,000 for the Series 2002B Bonds and \$1,000,000 for the Series 2002C Bonds, provided that the foregoing individual amounts for the Series 2002A Bonds, the Series 2002B Bonds and the Series 2002C Bonds are subject to change such that the total aggregate amount of the Series 2002 Bonds may not exceed \$117,762,826; (c) the final maturity of the Series 2002 Bonds shall occur not later than July 1, 2034 for the Series 2002A Bonds, July 1, 2034 for the Series 2002B Bonds and July 1, 2034 for the Series 2002C Bonds; (d) the price at which the Series 2002 Bonds are sold to the Underwriters and/or Fannie Mae shall not exceed 105% of the principal amount thereof for the Series 2002A Bonds, 100% of the principal amount thereof for the Series 2002B Bonds and 100% of the principal

amount thereof for the Series 2002C Bonds; and (e) the Underwriters' fee shall not exceed the amount approved by the Texas Bond Review Board.

Section 1.3--Approval, Execution and Delivery of the Supplemental Indentures. That the form and substance of the Supplemental Indentures are hereby approved, and that the authorized representatives of the Department named in this Resolution each are hereby authorized to execute, attest and affix the Department's seal to the Supplemental Indentures, and to deliver the Supplemental Indentures to the Trustee.

Section 1.4--Approval, Execution and Delivery of the Bond Purchase Agreements. That the sale of the Series 2002 Bonds to the Underwriters and/or Fannie Mae pursuant to the Bond Purchase Agreements is hereby approved and that the authorized representatives of the Department named in this Resolution are each hereby authorized to execute, attest and affix the Department's seal to the Bond Purchase Agreements and to deliver the Bond Purchase Agreements to the Underwriters and/or Fannie Mae.

Section 1.5--Preliminary Official Statements and Official Statements. That the Preliminary Official Statements relating to the Series 2002 Bonds, in substantially the forms presented to the Governing Board, are hereby approved; that prior to the execution of the Bond Purchase Agreements, the authorized representatives of the Department named in this Resolution, acting for and on behalf of the Governing Board, are hereby authorized and directed to finalize the Preliminary Official Statements for distribution by the Underwriters to prospective purchasers of the Series 2002 Bonds, with such changes therein as the authorized representatives of the Department named in this Resolution may approve in order to permit such an authorized representative, for and on behalf of the Governing Board, to deem the Preliminary Official Statements final as of their respective dates, except for such omissions as are permitted by Rule 15c2-12 of the Securities and Exchange Commission ("Rule 15c2-12"), such approval to be conclusively evidenced by the distribution of the respective Preliminary Official Statements; and that within seven business days after the execution of the Bond Purchase Agreements, the authorized representatives of the Department named in this Resolution, acting for and on behalf of the Governing Board, shall cause the final Official Statements, in substantially the forms of the corresponding Preliminary Official Statement, with such changes as such an authorized representative may approve, such approval to be conclusively evidenced by such authorized representative's execution thereof, to be provided to the Underwriters in compliance with Rule 15c2-12.

Section 1.6--Approval of Program Guidelines. That the form and substance of the Program Guidelines are hereby authorized and approved.

Section 1.7--Approval of Program Supplement. That the form and substance of the Program Supplement are hereby authorized and approved and that the authorized representatives of the Department named in this Resolution are hereby authorized to execute, attest and affix the Department's seal to the Program Supplement and to deliver the Program Supplement to the Mortgage Lenders.

Section 1.8--Approval of Mortgage Origination Agreement. That the form and substance of the Mortgage Origination Agreement are hereby authorized and approved and that the authorized representatives of the Department named in this Resolution are hereby authorized to execute, attest and affix the Department's seal to the Mortgage Origination Agreement and to deliver the Mortgage Origination Agreement to the Mortgage Lenders.

Section 1.9--Approval of Servicing Agreement. That the form and substance of the Servicing Agreement are hereby authorized and approved and that the authorized representatives of the Department named in this Resolution are hereby authorized to execute, attest and affix the Department's seal to the Servicing Agreement and to deliver the Servicing Agreement to the Trustee and the Servicer.

Section 1.10--Approval of Compliance Agreement. That the form and substance of the Compliance Agreement are hereby authorized and approved and that the authorized representatives of the Department

named in this Resolution are hereby authorized to execute, attest and affix the Department's seal to the Compliance Agreement and to deliver the Compliance Agreement to the Trustee and the Compliance Agent.

Section 1.11--Approval of Funding Agreement. That the form and substance of the Funding Agreement are hereby authorized and approved and that the authorized representatives of the Department named in this Resolution are hereby authorized to execute, attest and affix the Department's seal to the Funding Agreement and to deliver the Funding Agreement to the Servicer and the Trustee.

Section 1.12--Approval of Depository Agreement. That the form and substance of the Depository Agreement are hereby authorized and approved and that the authorized representatives of the Department named in this Resolution are hereby authorized to execute, attest and affix the Department's seal to the Depository Agreement and to deliver the Depository Agreement to the Trustee and the Texas Treasury Safekeeping Trust Company.

Section 1.13--Approval of Continuing Disclosure Agreements. That the form and substance of the Continuing Disclosure Agreements are hereby authorized and approved and that the authorized representatives of the Department named in this Resolution are hereby authorized to execute, attest and affix the Department's seal to the Continuing Disclosure Agreements and to deliver the Continuing Disclosure Agreements to the Trustee.

Section 1.14--Approval of Investment in GICs. That the investment of funds held under the RMRB Indenture in connection with the Series 2002 Bonds in GICs is hereby approved and that the Executive Director or the Director of Bond Finance of the Department is hereby authorized to complete arrangements for the investment in GICs or such other investments as the authorized representatives named herein may approve.

Section 1.15--Approval of GIC Broker. That the Executive Director or the Director of Bond Finance and the Chairman of the Governing Board are hereby authorized to select a GIC Broker, if any.

Section 1.16--Execution and Delivery of Other Documents. That the authorized representatives of the Department named in this Resolution are each hereby authorized to execute, attest, affix the Department's seal to and deliver such other agreements, advance commitment agreements, assignments, bonds, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, notices of acceptance, written requests and other papers, whether or not mentioned herein, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, the RMRB Indenture, the Supplemental Indentures, the Bond Purchase Agreements, the Depository Agreement, and the Continuing Disclosure Agreements.

Section 1.17--Power to Revise Form of Documents. That, notwithstanding any other provision of this Resolution, the authorized representatives of the Department named in this Resolution are each hereby authorized to make or approve such revisions in the form of the documents attached hereto as exhibits as, in the judgment of such authorized representative, and in the opinion of Vinson & Elkins L.L.P., Bond Counsel to the Department, may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, such approval to be evidenced by the execution of such documents by the authorized representatives of the Department named in this Resolution.

Section 1.18--Exhibits Incorporated Herein. That all of the terms and provisions of each of the documents listed below as an exhibit shall be and are hereby incorporated into and made a part of this Resolution for all purposes:

- Exhibit B - Twenty-Fifth Series Supplement
- Exhibit C - Twenty-Sixth Series Supplement
- Exhibit D - Twenty-Seventh Series Supplement
- Exhibit E - Bond Purchase Agreements

Exhibit F	-	Preliminary Official Statements
Exhibit G	-	Program Guidelines
Exhibit H	-	Program Supplement
Exhibit I	-	Mortgage Origination Agreement
Exhibit J	-	Servicing Agreement
Exhibit K	-	Compliance Agreement
Exhibit L	-	Funding Agreement
Exhibit M	-	Depository Agreement
Exhibit N	-	Continuing Disclosure Agreements

Section 1.19--Authorized Representatives. That the following persons are each hereby named as authorized representatives of the Department for purposes of executing and delivering the documents and instruments referred to in this Article I: the Chairman of the Governing Board; the Vice Chairman of the Governing Board; the Secretary of the Governing Board; the Executive Director of the Department; the Chief Financial Officer of the Department and the Director of Bond Finance of the Department.

Section 1.20--Department Contribution. That the contribution of Department funds in an amount not to exceed \$1,000,000 to pay certain costs of issuance of the Series 2002 Bonds or capitalized interest is hereby authorized.

Section 1.21--0% Loan Funds. That the use of funds in the 1998/1999A Special Mortgage Loan Fund, the 2001 A/B/C Mortgage Loan Account and the 2001 D/E Mortgage Loan Account in an amount not to exceed \$5,000,000 for the purpose of providing 0% loan funds for the Program is hereby authorized.

Section 1.22--Certification Pursuant to Section 2306.142(i). That the Governing Board hereby certifies that the Series 2002 Bonds are structured in a manner that serves the credit needs of borrowers in underserved economic and geographic submarkets in the State of Texas.

ARTICLE II

APPROVAL AND RATIFICATION OF CERTAIN ACTIONS

Section 2.1--Approval of Submission to the Attorney General of Texas. That the Governing Board of the Department hereby authorizes the Department's Bond Counsel to submit to the Attorney General of Texas, for his approval, a transcript of the legal proceedings relating to the issuance, sale and delivery of the Series 2002 Bonds.

Section 2.2--Engagement of Other Professionals. That the Executive Director or the Director of Bond Finance is authorized to engage an accounting firm to perform such functions, audits, yield calculations and subsequent investigations as necessary or appropriate to comply with the Bond Purchase Agreements and the requirements of the purchasers of the Series 2002 Bonds and Bond Counsel to the Department, provided such engagement is done in accordance with applicable State law.

Section 2.3--Certification of the Minutes and Records. That the Secretary and any Assistant Secretary of the Governing Board of the Department are hereby authorized to certify and authenticate minutes and other records on behalf of the Department for the Program, the issuance of the Series 2002 Bonds and all other Department activities.

Section 2.4--Approval of Requests for Rating from Rating Agencies. That the Executive Director, the Director of Bond Finance and the Department's consultants are authorized to seek ratings from Moody's Investors Service, Inc. and Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies.

Section 2.5--Ratifying Other Actions. That all other actions taken or to be taken by the Executive Director and the Department's staff in connection with the Program and the issuance of the Series 2002 Bonds are hereby ratified and confirmed.

Section 2.6--Authority to Invest Funds. That the Executive Director or the Director of Bond Finance is hereby authorized to undertake all appropriate actions required under the RMRB Indenture and the Depository Agreement, to provide for investment and reinvestment of all funds held under the RMRB Indenture.

Section 2.7--Eligibility for Refunding Under Commercial Paper Program. That the Series 2002 Bonds, the Department's Residential Mortgage Revenue Refunding Bonds, Series 2000A and any other bonds issued by the Department under the RMRB Indenture or the Single Family Mortgage Revenue Bond Trust Indenture qualify as "Refunded Bonds" for purposes of the Department's Amended and Restated Commercial Paper Resolution adopted on June 10, 1996, as amended from time to time.

ARTICLE III

CERTAIN FINDINGS AND DETERMINATIONS

Section 3.1--Determination of Interest Rate. That the Governing Board of the Department hereby declares that the Department shall fix and determine the interest rates on the Mortgage Loans for the Program at the time and in accordance with the procedures set forth in the RMRB Indenture and the Program Guidelines and that such rates shall be established at levels such that the Mortgage Loans for the Program will produce, together with other available funds, the amounts required to pay for the Department's costs of operation with respect to the Program and debt service on the Series 2002A Bonds, the Series 2002B Bonds, and the Series 2002C Bonds, and enable the Department to meet its covenants with and responsibilities to the holders of the bonds issued under the RMRB Indenture without adversely affecting the exclusion from gross income for federal income tax purposes of interest on any of such bonds.

ARTICLE IV

GENERAL PROVISIONS

Section 4.1--Limited Obligations. That the Series 2002 Bonds and the interest thereon shall be limited obligations of the Department payable solely from the trust estate pledged under the RMRB Indenture to secure payment of the bonds issued under the RMRB Indenture and payment of the Department's costs and expenses for the Program thereunder and under the RMRB Indenture and under no circumstances shall the Series 2002 Bonds be payable from any other revenues, funds, assets or income of the Department.

Section 4.2--Non-Governmental Obligations. That the Series 2002 Bonds shall not be and do not create or constitute in any way an obligation, a debt or a liability of the State or create or constitute a pledge, giving or lending of the faith or credit or taxing power of the State.

Section 4.3--Purposes of Resolution. That the Governing Board of the Department has expressly determined and hereby confirms that the issuance of the Series 2002 Bonds and the implementation of the Program contemplated by this Resolution accomplish a valid public purpose of the Department by assisting individuals and families of low and very low income and families of moderate income in the State to obtain decent, safe and sanitary housing, thereby (a) helping to eliminate a shortage of such housing in rural and urban areas which contributes to the creation and persistence of substandard living conditions and is inimical to the health, welfare and prosperity of the residents and communities of the State; (b) increasing the supply of residential housing for persons and families displaced by public actions and natural disasters; and (c) assisting private enterprise in providing sufficient quantities for the construction or rehabilitation of such housing.

Section 4.4--Notice of Meeting. That written notice of the date, hour and place of the meeting of the Governing Board at which this Resolution was considered and of the subject of this Resolution was furnished to the Secretary of State and posted on the Internet for at least seven (7) days preceding the convening of such meeting; that during regular office hours a computer terminal located in a place convenient to the public in the office of the Secretary of State was provided such that the general public could view such posting; that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof was discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended; and that written notice of the date, hour and place of the meeting of the Board and of the subject of this Resolution was published in the Texas Register at least seven (7) days preceding the convening of such meeting, as required by the Administrative Procedure and Texas Register Act, Chapters 2001 and 2002, Texas Government Code, as amended. Additionally, all of the materials in the possession of the Department relevant to the subject of this Resolution were sent to interested persons and organizations, posted on the Department's website, made available in hard-copy at the Department, and filed with the Secretary of State for publication by reference in the Texas Register not later than seven (7) days before the meeting of the Governing Board as required by Section 2306.032, Texas Government Code, as amended.

Section 4.5--Effective Date. That this Resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 14th day of November, 2002.

Chairman, Governing Board

ATTEST:

Secretary

(SEAL)

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
BOARD OF DIRECTORS
NOVEMBER 14, 2002**

**PRESENTATION, DISCUSSION AND POSSIBLE APPROVAL OF UNDERWRITING
TEAMS FOR THE SALE OF RESIDENTIAL MORTGAGE REVENUE BONDS
AND OTHER RELATED MATTERS
(PROGRAM 59)**

The structure of the Department's Residential Mortgage Revenue Bonds Series 2002 A/B/C issue is substantially complete. The Series 2002A/B/C bonds will create lendable mortgage funds of approximately \$40,000,000 upon closing in December 2002 and \$75,090,000 upon refunding the Convertible Option Bonds in 2003.

The attached page lists the investment banks recommended by Staff to manage the next single family bond transaction.

RECOMMENDATION

The Board approve the investment banks recommended by Staff for structuring and managing the Department's next single family bond transaction previously noted above.

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
BOARD OF DIRECTORS
NOVEMBER 14, 2002**

Program 59 Investment Banking Underwriting Team Recommendations

Estimated Transaction Size: \$ 117,400,000

<u>Firm</u>	<u>Underwriting Role</u>	<u>Liability%</u>
Bear Stearns & Co. Inc.	Senior Manager	45.0%
USbancorp Piper Jaffray	Co-Senior	25.0%
Lehman Brothers	Co-Manager	10.0%
Morgan Keegan & Company, Inc.	Co-Manager	10.0%
Estrada Hinojosa & Co.	Co-Manager	10.0%
		<u>100.0%</u>

	<u>Per Bond</u>	<u>Dollars</u>
Management Fee	\$ 0.50	\$ 58,700.00
Take-Down	6.25	733,750.00
Expenses	0.50	58,700.00
Structuring Fee	0.75	88,050.00
Underwriters' Counsel	0.50	58,700.00
Underwriters' Risk	0.00	0.00
	<u>\$ 8.50</u>	<u>\$ 997,900.00</u>

The proposed designation policy follows:

- Three (3) or more firms must be designated.
- No more than 45% allocated to any one firm.
- Minority designations must be at least 10%.



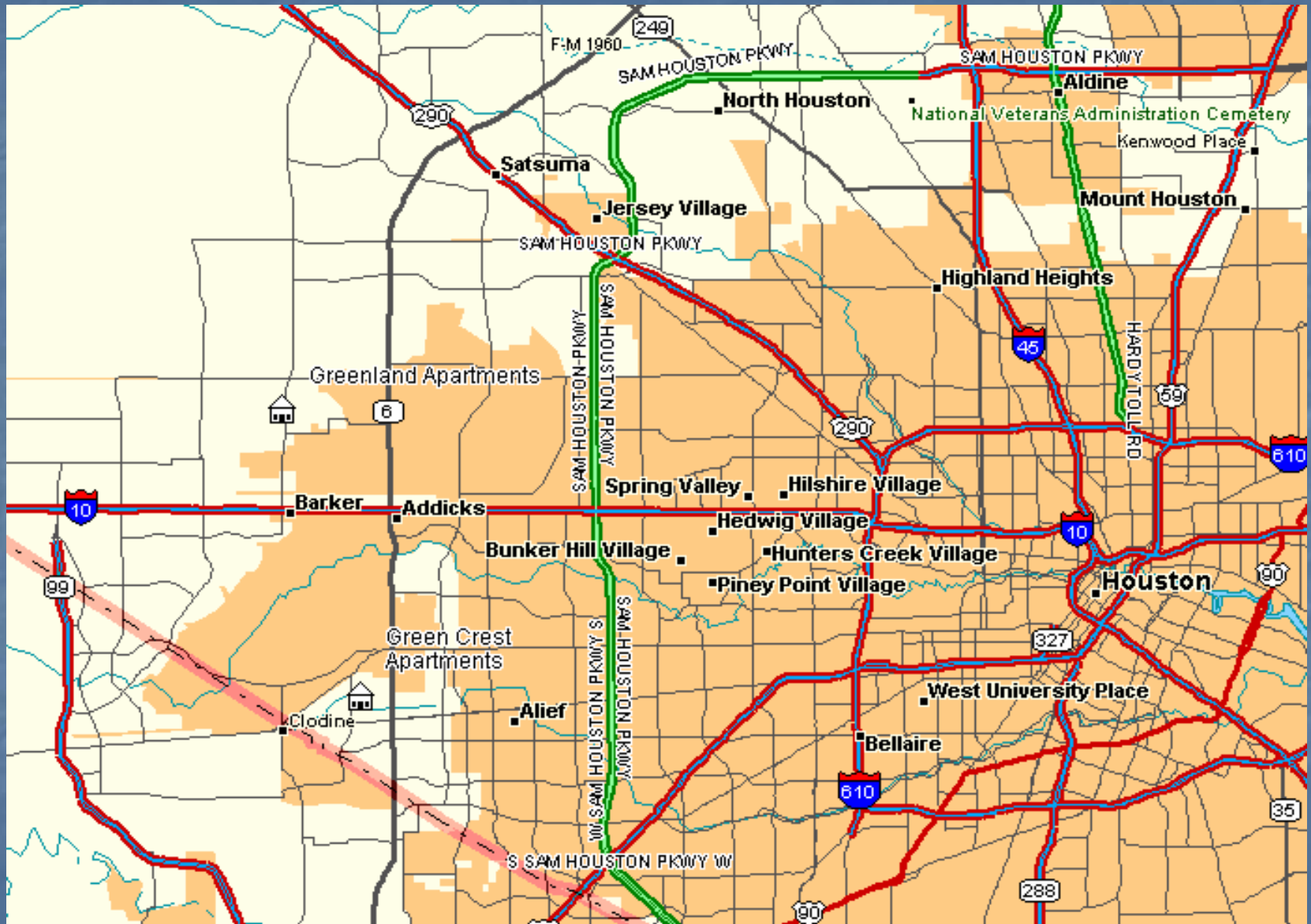
**TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS**

Board Meeting

November 14, 2002

Greenland Apartments, Houston, Texas

Area Map for Greenland Apartments





TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

- The subject's delineated market area is a 3.35 mile radius from the approximate center of the neighborhood (Fry and Clay Roads) was used. **Of particular importance, no rent restricted units have been built, or currently exist, within a three-mile radius of the subject.** However, a 320-unit, Class "A" complex is planned along Park Row and Fox Lake, approximately 2.75 miles southwest of the subject. This complex is scheduled to break ground in early 2003 and should be fully developed by year-end.
- Within the defined market area there are thirty four (34) multifamily developments containing 7,883 units. Twenty-four (24) complexes totaling 5,212 units or **66.1% were built between 1978-1986.** Ten (10) complexes totaling 2,671 or 33.9% were built between 1991-2000.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

- **Among all of the 34 multifamily development surveyed, over half (53.25%) of the units were either efficiency or one bedroom floor plans.** The subject is targeting families, therefore, it offers a higher than typical percentage of two and three bedroom units.
- There is a relatively large contingent **(4013 households or 19.8%) of Households within the area earning less than \$25,000**



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

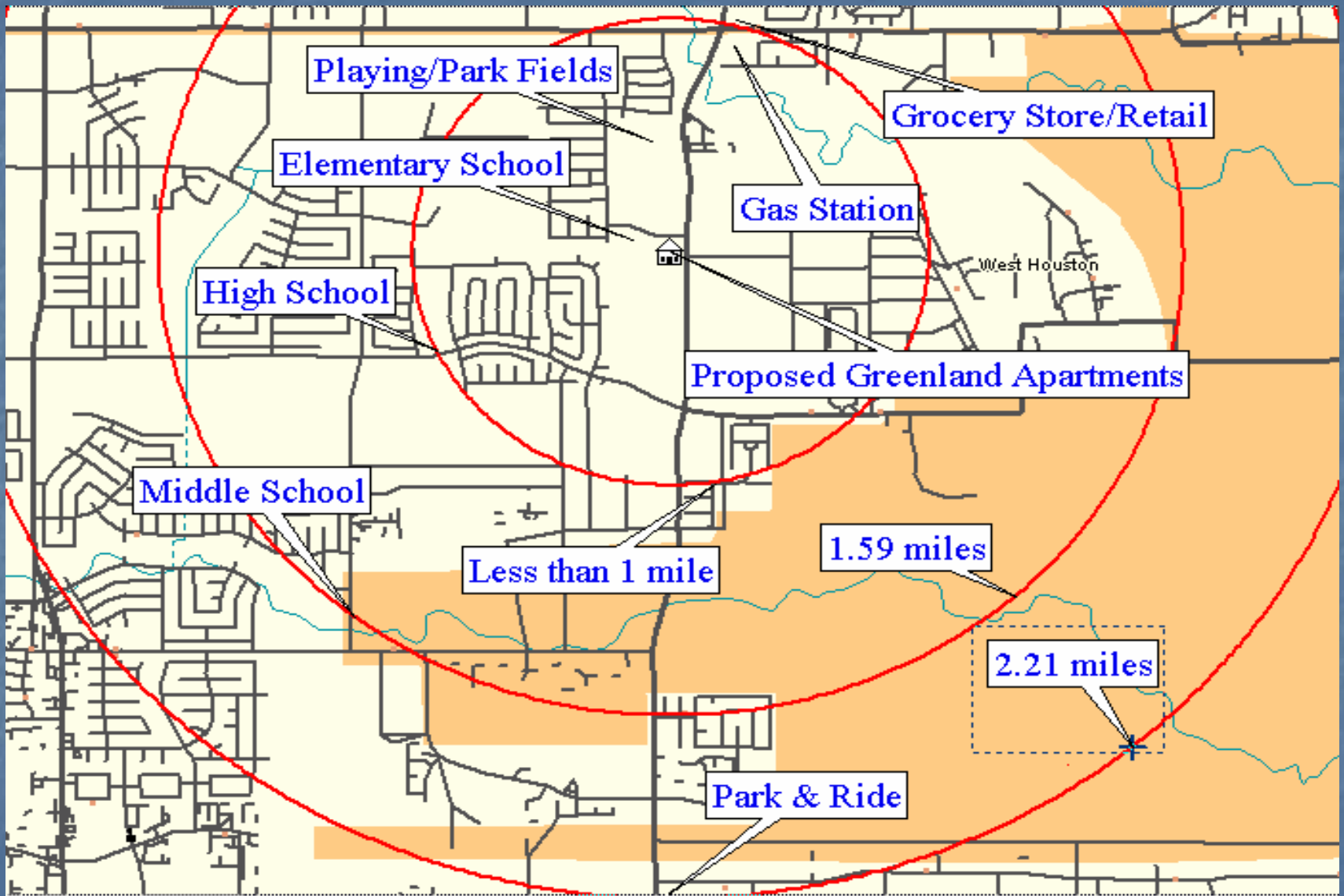
- Based on data compiled from the Houston Multiple Listing Serviced (MLS), the median price of a new house in the Houston Metropolitan is +/- \$129,000. However, new and used homes within the area are available for around \$+/- \$100,000. Based on the industry-wide requirement that a house payment should be no more the 28% of total income (36% if total debt is considered) a median household income of \$3,232 per month or \$38,784 per year would be needed to qualify for a \$100,000 home. **Within the subject's market area approximately 35.4% of the households earn less than \$38,784 and thus would not qualify for the purchase of a median price home. Not surprisingly, 32.6% of all neighborhood housing is rented.**



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

- The subject neighborhood is easily accessible via various thoroughfares and highways. IH-10 bisects the southern portion of the neighborhood and allows for convenient access to all parts of Houston through connecting interstates and highways. Public transportation within the area is limited to **METRO Park-n-Ride facilities are located within a 2.21 mile radius.** (See Map attached)
- The subject property is located in close proximity to the High School, Middle School and located directly east of the **Elementary School (Betty & Jean Schmalz Elementary.** (See Map attached)

Area Map for Greenland Apartments





TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

- The Subject neighborhood is served by two hospitals. Katy Hospital is located along Pin Oak near IH-10 while St. Christus is located along Fry Road, South of IH-10. **Both hospitals are within an approximate 10-minute commute from the subject.**
- Recreational amenities are conveniently located within or in proximity to the subject's neighborhood. The man-made Addicks and Barker Reservoirs are located on the eastern and southern edge of the neighborhood. **The +/- 28,000 acre Addicks and Barker Reservoirs have been improved with public golf courses, picnic areas, rifle and archery ranges, playing fields and jogging/bike trails.** In addition, restaurants, shopping, and movie theaters are within easy commute to area residents.



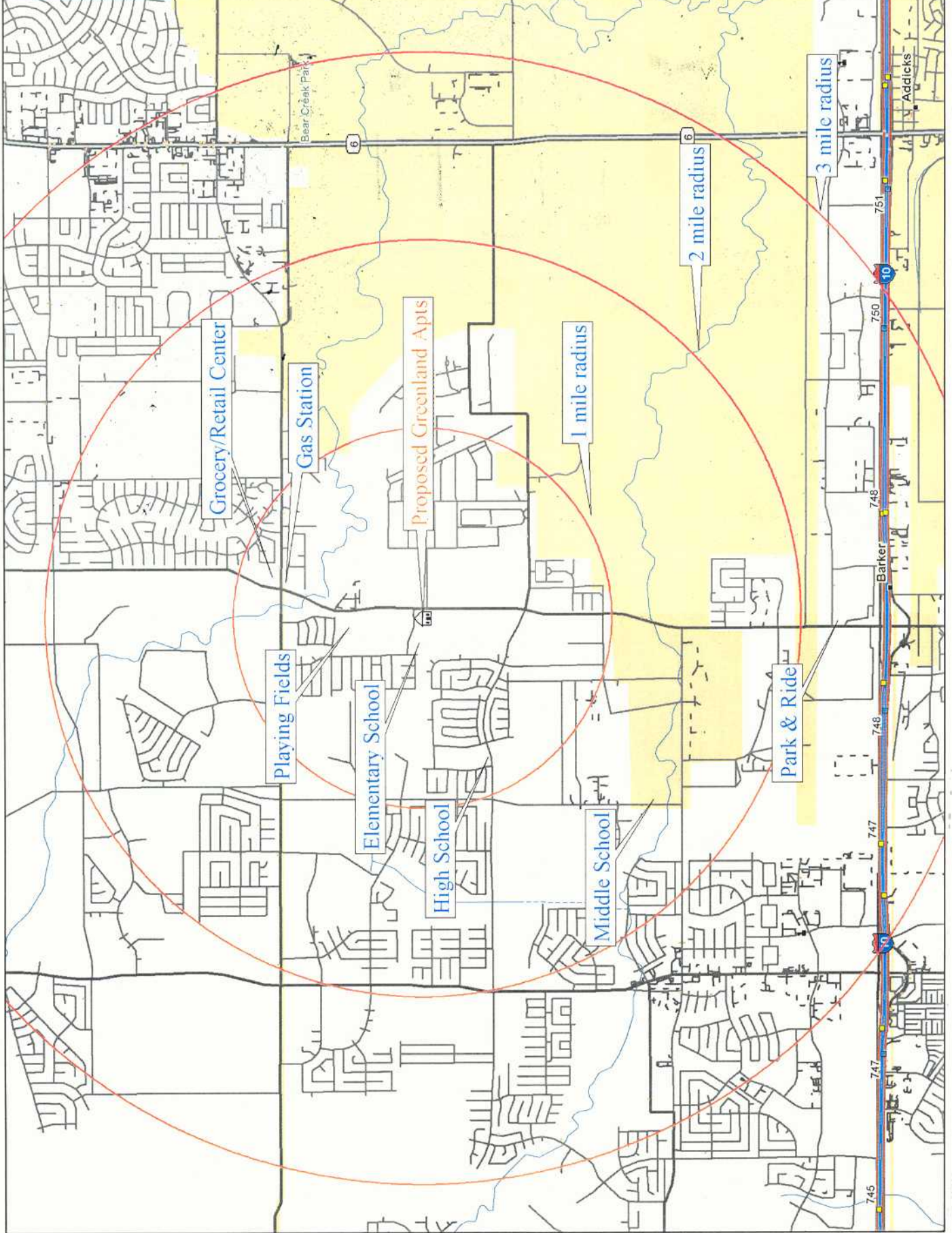
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

- There are numerous shopping centers within a three-mile radius of the subject located primarily at the major intersections. **In fact, there are 52, retail centers totaling over 3.62 million square feet located within a three-mile radius of the subject.** The most recent, and most noteworthy, development involves the Katy Mills Mall. Located on 640 acres along IH-10 at Pin Oak Road (5 to 6 miles from the subject), the \$250 million Katy Mills Mall contains 1.4 million square feet. **Roughly 400 of the 640 acres are slated for peripheral development that could include a golf course, hotel, restaurants, office, entertainment and other facilities.** These shopping centers offer a variety of stores to service the everyday needs of the residents.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

- The absorption of the subject's 252 LIHTC units should be fairly strong given the low rents and good quality, an option not previously available. **Consequently, an absorption period of less than one (1) year is considered most likely and reasonable probable.** Most importantly, the subject's new units are to be of good quality and should compete well with the upper end apartments complexes, maintaining comparatively high occupancies give the below market rental rates and targeted clientele.



Grocery/Retail Center

Gas Station

Playing Fields

Elementary School

High School

Middle School

Park & Ride

Proposed Greenland Apts

1 mile radius

2 mile radius

3 mile radius

Bear Creek Park

6

6

751

750

748

Barker

748

747

747

745

745

Addicks

40

40



TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS

HOUSING FINANCE DIVISION - MULTIFAMILY

REQUEST FOR BOARD APPROVAL OF MULTIFAMILY MORTGAGE REVENUE BOND ISSUANCE

2002 PRIVATE ACTIVITY MULTIFAMILY REVENUE BONDS

GREENLAND APARTMENTS

\$9,680,000 (*) Tax Exempt – Series 2002A-1

\$1,600,000 (*) Taxable – Series 2002A-2

2,820,000 (*) Tax Exempt – Series 2002B

TABLE OF EXHIBITS

TAB 1	TDHCA Board Presentation
TAB 2	Sources & Uses of Funds Estimated Costs of Issuance
TAB 3	Department's Credit Underwriting Analysis
TAB 4	Rental Restrictions Explanation Results & Analysis
TAB 5	Location Map
TAB 6	TDHCA Compliance Report
TAB 7	Results of Public/TEFRA Hearings (October 3, 2002)

() Preliminary - subject to change*

**FINANCE COMMITTEE AND BOARD APPROVAL
MEMORANDUM**

November 14, 2002

PROJECT: Greenland Apartments, Houston, Harris County, Texas

PROGRAM: Texas Department of Housing and Community Affairs
2002 Multifamily Housing Mortgage Revenue Bonds
(Reservation received 08/8/2002)

**ACTION
REQUESTED:**

Approve the issuance of multifamily housing mortgage revenue bonds (the "Bonds") by the Texas Department of Housing and Community Affairs (the "Department"). The Bonds will be issued under Chapter 1371, Texas Government Code, as amended, and under Chapter 2306, Texas Government Code, the Department's Enabling Act (the "Act"), which authorizes the Department to issue its revenue bonds for its public purposes as defined therein.

PURPOSE:

The proceeds of the Bonds will be used to fund a mortgage loan (the "Mortgage Loan") to Greenland Apartments Limited Partnership, a Texas limited partnership (the "Borrower"), to finance the acquisition, construction, equipment and long-term financing of a proposed, 252 unit multifamily residential rental development to be constructed in Harris County, Texas 77084. (the "Project"). A portion of the Bonds will be tax-exempt by virtue of the Project's qualifying as a residential rental project.

BOND AMOUNT:

\$ 9,680,000 Series 2002A-1 Bonds (the "Senior Tax-Exempt Bonds")
\$ 1,600,000 Series 2002A-2 Bonds (the "Senior Taxable Bonds")
\$ 2,820,000 Series 2002B Bonds (the "Subordinate Tax-Exempt
Bonds")
\$14,100,000 (the Bonds) Total (*)

(*) The aggregate principal amount of the Bonds will be determined by the Department based on its rules, underwriting, the cost of construction of the Project and the amount for which Bond Counsel can deliver its Bond Opinion.

**ANTICIPATED
CLOSING DATE:**

The Department received a volume cap allocation for the Bonds on August 8, 2002 pursuant to the Texas Bond Review Board's 2002 Private Activity Bond Allocation Program. While the Department is required to deliver the Bonds on or before December 6, 2002, the anticipated closing date is December 4, 2002.

BORROWER:

Greenland Apartments Limited Partnership, a Texas limited partnership, the general partner of which is TCR Greenland Partners Limited Partnership, the general partner of which is TCR 2002 Housing, Inc., the Vice-President of which is Chris Bergman.

**COMPLIANCE
HISTORY:**

A recent Compliance Status Summary reveals that the principal of the general partner above has a total of six (6) properties being monitored

by the Department. Five (5) of these properties have received a compliance score. All of the scores are below the material non-compliance threshold score of 30

ISSUANCE TEAM & ADVISORS:

SunAmerica, Inc. (“Equity Provider”)
 SunAmerica, Inc. (Construction Phase Credit Facility Provider)
 Bank One, National Association, (“Trustee”)
 Kirkpatrick Pettis (“Placement Agent/Bond Purchaser”)
 Vinson & Elkins L.L.P. (“Bond Counsel”)
 RBC Dain Rauscher Inc. (“Financial Advisor”)
 McCall, Parkhurst & Horton, L.L.P. (Disclosure Counsel)

BOND PURCHASER:

The Bonds will be privately purchased by Kirkpatrick Pettis. The purchaser and any subsequent purchaser will be required to sign the Department’s standard traveling investor letter.

PROJECT DESCRIPTION:

Site: The Project is a 252-unit multifamily residential rental development to be constructed on approximately 14.5 acres of land located at the southwest corner of Green Land Way and Barker Cypress Road, Harris County, Texas 77084. Site density will be 17.4 dwelling units per acre.

Buildings: The Project will include a total of twenty-three (2) two-story, wood-framed buildings with a total of 257,216 net rentable square feet and an average unit size of 1,021 square feet. The building exteriors will consist of 35% brick and 63% Hardi-board siding with a composition shingle roof. The interiors will consist of 8 foot sheetrock walls and a combination of carpet and vinyl flooring with ceramic tile entries. There will be a full range of kitchen appliances excluding microwave ovens. Additional interior features include washer/dryer connections, ceiling fans and cable.

Units	Unit Type	Square Feet	Proposed Net Rent
12	1-Bedrooms/1-Baths	684	\$614
24	1-Bedrooms/1.5-Baths	795	\$614
8	1-Bedrooms/1.5-Baths	826	\$614
112	2-Bedrooms/1.5-Baths	1,027	\$734
32	2-Bedrooms/2-Baths	1,102	\$734
8	2-Bedrooms/2-Baths	1,128	\$734
<u>56</u>	3-Bedrooms/2.5-Baths	1,143	\$845
252			

On-site Amenities: There will be a large clubhouse that will have office and leasing space, a community meeting room, a computer room, a laundry room, an exercise room with exercise equipment and public restrooms. Adjacent to the clubhouse will be a large swimming pool. Other amenities will include a picnic area, children’s play area with playground equipment, perimeter fencing and access gates as well as 24 carports and 517 uncovered parking spaces.

SET-ASIDE UNITS:

For Bond covenant purposes, at least forty (40%) of the residential

units in the development will be set aside for persons or families earning not more than sixty percent (60%) of the area median income. Five percent (5%) of the units in each project will be set aside on a priority basis for persons with special needs.

(The Borrower has elected to set aside 100% of the units for tax credit purposes.)

RENT CAPS:

For Bond covenant purposes, the rental rates on 100% of the units will be restricted to a maximum rent that will not exceed thirty percent (30%) of the income, adjusted for family size, for sixty percent (60%) of the area median income.

TENANT SERVICES:

The Borrower anticipates contracting with Apartment Life, Inc. to provide a Tenant Services Plan based on the tenant profile upon lease-up that conforms to the Department's program guidelines.

**DEPARTMENT
ORIGINATION
FEES:**

\$1,000 Pre-Application Fee (Paid).
\$10,000 Application Fee (Paid).
\$70,500 Issuance Fee (.50% of the bond amount paid at closing).

**DEPARTMENT
ANNUAL FEES:**

\$14,100 Bond Administration (0.10% per annum of the aggregate principal amount of Bonds outstanding)
\$6,300 Compliance (\$25/unit/year adjusted annually for CPI)

(Department's annual fees may be adjusted, including deferral, to accommodate underwriting criteria and Project cash flow. These fees will be subordinated to the Mortgage Loan and paid outside of the cash flows contemplated by the Indenture)

**ASSET OVERSIGHT
FEE:**

\$6,300 to TSAHC or assigns (\$25/unit/year adjusted annually for CPI)

TAX CREDITS:

The Borrower has applied to the Department to receive a Determination Notice for the 4% tax credit that accompanies the private-activity bond allocation. The tax credit equates to \$623,427 per annum and represents equity for the transaction. To capitalize on the tax credit, the Borrower will sell a substantial portion of the limited partnership, typically 99.9%, to raise equity funds for the project. Although a tax credit sale has not been finalized, the Borrower anticipates raising approximately \$5,050,085 of net equity proceeds for the transaction.

BOND STRUCTURE:

The Bonds are proposed to be issued under a Trust Indenture (the "Trust Indenture") that will describe the fundamental structure of the Bonds, permitted uses of Bond proceeds and procedures for the administration, investment and disbursement of Bond proceeds and program revenues.

The Bonds will be privately placed with the Bond Purchaser, and will mature over a term of 33 years. During the construction and lease-up period, the Bonds will pay as to interest only. The Bonds will be secured by a first lien on the Project.

The Bonds are mortgage revenue bonds and, as such, create no potential liability for the general revenue fund or any other state fund. The Act provides that the Department's revenue bonds are solely obligations of the Department, and do not create an obligation, debt, or liability of the State of Texas or a pledge or loan of the faith, credit or taxing power of the State of Texas. The only funds pledged by the Department to the payment of the Bonds are the revenues from the financing carried out through the issuance of the Bonds.

BOND INTEREST RATES: The interest rate on the Senior Tax-Exempt Bonds and the Subordinate Tax-Exempt Bonds will be 6.25%. The interest rate on the Senior Taxable Bonds will be 8.0%.

CREDIT ENHANCEMENT: Initially, the bonds will be unrated with no credit enhancement.

FORM OF BONDS: The Bonds will be issued as registered bonds without coupons in denominations of \$100,000 or any integral multiple of \$5,000 in excess of \$100,000.

MATURITY/SOURCES & METHODS OF REPAYMENT: The Bonds will bear interest at a fixed rate until maturity and will be payable semiannually on June 1 and December 1 of each year. During the construction phase, the Bonds will be payable as to interest only, from deposits to the Interest Account from the Construction Account, earnings derived from amounts held on deposit in an investment agreement, and other funds deposited to the Revenue Fund specifically for capitalized interest during a portion of the construction phase. After conversion to the permanent phase, the Bonds will be paid from revenues earned from the Mortgage Loan.

TERMS OF THE MORTGAGE LOAN: The Mortgage Loan is a non-recourse obligation of the Owner (which means, subject to certain exceptions, the Owner is not liable for the payment thereof beyond the amount realized from the pledged security) providing for monthly payments of interest during the construction phase and level monthly payments of principal and interest upon conversion to the permanent phase. A Deed of Trust and related documents convey the Owner's interest in the project to secure the payment of the Mortgage Loan.

REDEMPTION OF BONDS PRIOR TO MATURITY: The Bonds are subject to redemption under any of the following circumstances:

Extraordinary Mandatory Redemption:

The Senior Bonds (the “Senior Tax-Exempt Bonds” and the “Senior Taxable Bonds”) are generally subject to extraordinary mandatory redemption prior to the extraordinary mandatory redemption of the Subordinate Bonds (the “Subordinate Tax-Exempt Bonds”), under certain conditions, whether in whole or in part as follows:

- (a) in the event of damage to or destruction or condemnation of the Project to the extent that insurance proceeds or a condemnation award in connection with the Project are not applied to restoring and repairing the mortgaged property; or
- (b) upon the occurrence of a Borrower Event of Default or a Construction Phase Credit Facility Provider Default as provided under either the Senior Loan Documents with respect to the Senior Bonds or the Subordinate Loan Documents with respect to the Subordinate Bonds; or
- (c) to achieve Stabilization within sixty (60) days after the Stabilization Date in amounts not to exceed the Senior Stabilization Amount and the Subordinate Stabilization Amount, as applicable; or
- (d) for failure to achieve Stabilization within sixty (60) days after the Final Loan Balancing Date if Stabilization of the Project is not achieved on or prior to the Final Loan Balancing Date; or
- (e) from Excess Bond Proceeds remaining on deposit in the Construction Fund upon completion of the Project.

Optional Redemption:

The Senior Bonds and Subordinate Bonds are subject to redemption at the option of the Borrower prior to their stated maturity on December 1, 2012 or any date thereafter, in whole or in part, from moneys deposited with the Trustee based on an optional prepayment of the Loan by the Borrower.

Mandatory and Cumulative Sinking Fund Redemption:

A portion of the Bonds are subject to mandatory redemption according to the dates and in the amounts indicated in Section 3.1 (c) of the Trust Indenture.

**FUNDS AND
ACCOUNTS/FUNDS
ADMINISTRATION:**

Under the Trust Indenture, Bank One, National Association (the "Trustee") will serve as registrar and authenticating agent for the Bonds, trustee of certain of the funds created under the Trust Indenture (described below), and will have responsibility for a number of loan administration and monitoring functions.

Moneys on deposit in Trust Indenture funds are required to be invested in eligible investments prescribed in the Trust Indenture until needed for the purposes for which they are held.

The Trust Indenture will create up to Eight (8) funds with the following general purposes:

1. Construction Fund – Represents the proceeds of the Bonds received on the Closing Date and consists of three accounts as follows:
 - (a) Tax-Exempt Bond Proceeds Account – representing a specified amount of the proceeds of the sale of the Series 2002A-1 Senior Tax-Exempt Bonds and the Series 2002B Subordinate Tax-Exempt Bonds;
 - (b) Taxable Bond Proceeds Account – representing a specified amount of the proceeds from the sale of the Series 2002A-2 Senior Taxable Bonds; and
 - (c) Borrower Equity Account – representing a specified amount from the Borrower.
2. Costs of Issuance Fund – Represents a specified amount from the Borrower and from the proceeds of the sale of the Series 2002A-1 Senior Tax-Exempt Bonds.
3. Revenue Fund – Represents deposits received under the Loan Agreement, the Senior Note, the Subordinate Note and other revenues to be distributed monthly by the Trustee to various Funds and Accounts according to the order of the fifteen distributions designated by the Indenture: (First) to the Rebate Fund until funded in full, (Second) to the Interest Account of the Bond Fund for the payment of interest on the Senior Bonds, (Third) to the Principal Account of the Bond Fund for the payment of principal on the Senior Bonds, (Fourth) to the Administrative Fees Account equal to the sum of all Bondholder Advances due and payable, (Fifth) to the Real Estate Tax and Insurance Account for the payment of taxes and insurance, and so forth according to Section 5.2 (b) of the Indenture. Interest and principal on the Subordinate Bonds will be paid from the Revenue Fund after all payments of principal and interest on the Senior Bonds and fees associated with the Bonds have been made. The Revenue Fund shall contain an Administrative Fees Account:
 - (a) Administrative Fees Account – representing a portion of the deposits from the Revenue Fund equal to the sum of all Bondholder Advances which are due and payable as of such date. Bondholder Advances are advances made by the bondholder, in its discretion, to pay insurance premiums,

taxes and other amounts not paid by the Borrower.

4. Bond Fund – Contains the following accounts:
 - (a) Interest Account – representing funds for the payment of interest as it comes due on the Senior Bonds;
 - (b) Principal Account – representing funds for the payment of principal on the Senior Bonds;
 - (c) Redemption Account – representing funds transferred from the Construction Fund or the Mortgage Recovery Fund and funds paid to the Trustee for the mandatory or optional redemption of the outstanding Senior Bonds; and,
 - (d) Subordinate Bond Account – representing funds transferred from the Revenue Fund, the Construction Fund or the Mortgage Recovery Fund and funds paid to the Trustee for the mandatory or optional redemption of the outstanding Subordinate Bonds and used to pay principal of and interest on the Subordinate Bonds.
5. Rebate Fund – Represents funds delivered or directed by Borrower to be periodically rebated to the appropriate Internal Revenue Service Center to preserve the tax-exempt status of the Bonds. These funds are not subject to any security interest in favor of the bondholders to secure the Bonds or otherwise pledged for any other obligation.
6. Mortgage Recovery Fund – May contain the following types of proceeds:
 - (a) Condemnation Proceeds to pay for the costs of repairing or replacing the Project to the extent required or permitted by the Loan Agreement if there is damage, destruction or Condemnation of the Project, or to redeem Bonds if Borrower fails to comply or elects not to repair or replace the Project;
 - (b) proceeds realized from a foreclosure sale in the event of a foreclosure of the Senior Mortgage or the Subordinate Mortgage and the occurrence of an Event of Default under the Indenture; and
 - (c) proceeds from the title insurance policy with respect to the Project.

Unused balances in the Mortgage Recovery Fund are deposited into the Revenue Fund, or if directed by the Borrower, to the Bond Fund and applied to the redemption of Bonds, or deposited to the Bond Fund to pay principal and interest on the Bonds when due to the extent funds are not otherwise available.

7. Servicing Fund – Contains the following accounts:
 - (a) Real Estate Tax and Insurance Account – represents funds transferred from the Revenue Fund for the payment of real estate taxes and assessments, other governmental charges and insurance premiums; and
 - (b) Replacement Reserve Account – represents funds transferred from the Revenue Fund for the payment of capital expenditures and replacements to the Project.
8. Costs of Issuance Fund – Represents funds for the payment of the Costs of Issuance up to two percent of the Net Proceeds of the Tax-Exempt Bonds unless partially or completely paid by an equity contribution from the Borrower.

**DEPARTMENT
ADVISORS:**

The following advisors have been selected by the Department to perform the indicated tasks in connection with the issuance of the Bonds.

1. Bond Counsel - Vinson & Elkins L.L.P. ("V&E") was most recently selected to serve as the Department's bond counsel through a request for proposals ("RFP") issued by the Department in August 17, 2001. V&E has served in such capacity for all Department or Agency bond financings since 1980, when the firm was selected initially (also through an RFP process) to act as Agency bond counsel.
2. Bond Trustee Bank One, National Association, was selected as bond trustee by the Department pursuant to a request for proposal process in June 1996.
3. Financial Advisor - Dain Rauscher, Inc., formerly Rauscher Pierce Refsnes, was selected by the Department as the Department's financial advisor through a request for proposals process in September 1991.
4. Disclosure Counsel – McCall, Parkhurst & Horton, L.L.P. was selected by the Department as Disclosure Counsel through a request for proposals process in 1998.

**ATTORNEY GENERAL
REVIEW OF BONDS:**

No preliminary written review of the Bonds by the Attorney General of Texas has yet been made. Department bonds, however, are subject to the approval of the Attorney General, and transcripts of proceedings with respect to the Bonds will be submitted for review and approval prior to the issuance of the Bonds.

RESOLUTION NO. 02-61

RESOLUTION AUTHORIZING AND APPROVING THE ISSUANCE, SALE AND DELIVERY OF MULTIFAMILY HOUSING MORTGAGE REVENUE BONDS (GREENLAND APARTMENTS) SERIES 2002A-1, TAXABLE MULTIFAMILY HOUSING MORTGAGE REVENUE BONDS (GREENLAND APARTMENTS) SERIES 2002A-2 AND MULTIFAMILY HOUSING MORTGAGE REVENUE BONDS (GREENLAND APARTMENTS) SERIES 2002B; APPROVING THE FORM AND SUBSTANCE AND AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS AND INSTRUMENTS PERTAINING THERETO; AUTHORIZING AND RATIFYING OTHER ACTIONS AND DOCUMENTS; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, the Texas Department of Housing and Community Affairs (the "Department") has been duly created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code, as amended (the "Act"), for the purpose, among others, of providing a means of financing the costs of residential ownership, development and rehabilitation that will provide decent, safe, and affordable living environments for individuals and families of low and very low income (as defined in the Act) and families of moderate income (as described in the Act and determined by the Governing Board of the Department (the "Board") from time to time); and

WHEREAS, the Act authorizes the Department: (a) to make mortgage loans to housing sponsors to provide financing for multifamily residential rental housing in the State of Texas (the "State") intended to be occupied by individuals and families of low and very low income and families of moderate income, as determined by the Department; (b) to issue its revenue bonds, for the purpose, among others, of obtaining funds to make such loans and provide financing, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, receipts or resources of the Department, including the revenues and receipts to be received by the Department from such multi-family residential rental project loans, and to mortgage, pledge or grant security interests in such loans or other property of the Department in order to secure the payment of the principal or redemption price of and interest on such bonds; and

WHEREAS, the Board has determined to authorize the issuance of the Texas Department of Housing and Community Affairs Multifamily Housing Mortgage Revenue Bonds (Greenland Apartments) Series 2002A-1 (the "Series A-1 Bonds"), Taxable Multifamily Housing Mortgage Revenue Bonds (Greenland Apartments) Series 2002A-2 (the "Series A-2 Bonds," and together with the Series A-1 Bonds, the "Senior Bonds"), and Multifamily Housing Mortgage Revenue Bonds (Greenland Apartments) Series 2002B (the "Subordinate Bonds") (the Senior Bonds and the Subordinate Bonds are referred to herein, collectively, as the "Bonds"), pursuant to and in accordance with the terms of a Trust Indenture (the "Indenture") by and between the Department and Bank One, National Association, as trustee (the "Trustee"), for the purpose of obtaining funds to finance the Project (defined below), all under and in accordance with the Constitution and laws of the State of Texas; and

WHEREAS, the Department desires to use the proceeds of the Bonds to fund a mortgage loan to Greenland Apartments Limited Partnership, a Texas limited partnership (the "Borrower"), in order to finance the cost of acquisition, construction and equipping of a qualified residential rental project described on Exhibit A attached hereto (the "Project") located within the State of Texas and required by the Act to be occupied by individuals and families of low and very low income and families of moderate income, as determined by the Department; and

WHEREAS, the Board, by resolution adopted on October 17, 2001, declared its intent to issue its revenue bonds to provide financing for the Project; and

WHEREAS, it is anticipated that the Department, the Borrower and the Trustee will execute and deliver a Loan Agreement (the "Loan Agreement") pursuant to which (i) the Department will agree to make a mortgage loan funded with the proceeds of the Bonds (the "Loan") to the Borrower to enable the Borrower to finance the cost of acquisition and construction of the Project and related costs, and (ii) the Borrower will execute and deliver to the Department its two promissory notes (the "Notes") one in an original principal amount corresponding to the original aggregate principal amount of the Senior Bonds and one in an amount corresponding to the original aggregate principal amount of the Subordinate Bonds, and providing for payment of interest on such principal amounts equal to the interest on the respective Bonds and to pay other costs described in the Agreement; and

WHEREAS, it is anticipated that the Notes will each be secured by a separate Deed of Trust (with Security Agreement and Assignment of Rents) (collectively, the "Deeds of Trust") and a separate Assignment of Leases and Rents (collectively, the "Assignments of Leases and Rents") from the Borrower for the benefit of the Department; and

WHEREAS, the Department's interest in the Loan, including the Notes and the Deeds of Trust, will be assigned to the Trustee pursuant to an Assignment of Deed of Trust Documents and an Assignment of Notes (collectively, the "Assignments") from the Department to the Trustee; and

WHEREAS, the Board has determined that the Department, the Trustee and the Borrower will execute a Regulatory and Land Use Restriction Agreement (the "Regulatory Agreement"), with respect to the Project which will be filed of record in the real property records of Harris County, Texas; and

WHEREAS, the Board has further determined that the Department will enter into a Bond Purchase Agreement (the "Purchase Agreement") with the Borrower and Kirkpatrick, Pettis, Smith, Polian Inc. (the "Purchaser") and any other party to the Purchase Agreement as authorized by the execution thereof by the Department, setting forth certain terms and conditions upon which the Purchaser will purchase the Bonds and the Department will sell the Bonds to the Purchaser; and

WHEREAS, the Board has examined proposed forms of (a) the Indenture, the Loan Agreement, the Assignments, the Regulatory Agreement and the Purchase Agreement (collectively, the "Issuer Documents"), all of which are attached to and comprise a part of this Resolution and (b) the Deeds of Trust and the Assignments of Leases and Rents; has found the form and substance of such documents to be satisfactory and proper and the recitals contained therein to be true, correct and complete; and has determined, subject to the conditions set forth in Section 1.12, to authorize the issuance of the Bonds, the execution and delivery of the Issuer Documents, the acceptance of the Deeds of Trust and the Assignments of Leases and Rents and the taking of such other actions as may be necessary or convenient in connection therewith; NOW, THEREFORE,

BE IT RESOLVED BY THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS:

ARTICLE I

ISSUANCE OF BONDS; APPROVAL OF DOCUMENTS

Section 1.1--Issuance, Execution and Delivery of the Bonds. That the issuance of the Bonds is hereby authorized, under and in accordance with the conditions set forth herein and in the Indenture, and that, upon execution and delivery of the Indenture, the authorized representatives of the Department named in this Resolution each are authorized hereby to execute, attest and affix the Department's seal to the Bonds and to deliver the Bonds to the Attorney General of the State of Texas for approval, the Comptroller of Public Accounts of the State of Texas for registration and the Trustee for authentication

(to the extent required in the Indenture), and thereafter to deliver the Bonds to the order of the initial purchasers thereof.

Section 1.2--Interest Rate, Principal Amount, Maturity and Price. That the Chairman of the Governing Board or the Executive Director of the Department are hereby authorized and empowered, in accordance with Chapter 1371, Texas Government Code, to fix and determine the interest rate, principal amount and maturity of and the redemption provisions related to, the Senior Bonds, all of which determinations shall be conclusively evidenced by the execution and delivery by the Chairman of the Governing Board or the Executive Director of the Department of the Indenture and the Purchase Agreement; provided, however, that: (a)(i) the interest rate on the Series A-1 Bonds shall, from the date of issuance until paid on the maturity date or earlier redemption or acceleration thereof, be 6.25% per annum, and on the Series A-2 Bonds shall, from the date of issuance until paid on the maturity date or earlier redemption or acceleration thereof, be 8.0% per annum; (ii) the aggregate principal amount of the Series A-1 Bonds shall be \$9,680,000 and of the Series A-2 Bonds shall be \$1,600,000; and (iii) the final maturity of the Series A-1 Bonds shall occur on June 1, 2036 and of the Series A-2 Bonds shall occur on December 1, 2015; and (b)(i) the interest rate on the Subordinate Bonds shall, from the date of issuance until paid on the maturity date or earlier redemption or acceleration thereof, be 6.25% per annum; (ii) the aggregate principal amount of the Subordinate Bonds shall be \$2,820,000; and (iii) the final maturity of the Subordinate Bonds shall occur on June 1, 2036.

Section 1.3--Approval, Execution and Delivery of the Indenture. That the form and substance of the Indenture are hereby approved, and that the authorized representatives of the Department named in this Resolution each are authorized hereby to execute, attest and affix the Department's seal to the Indenture and to deliver the Indenture to the Trustee.

Section 1.4--Approval, Execution and Delivery of the Loan Agreement and Regulatory Agreement. That the form and substance of the Loan Agreement and the Regulatory Agreement are hereby approved, and that the authorized representatives of the Department named in this Resolution each are authorized hereby to execute, attest and affix the Department's seal to the Loan Agreement and the Regulatory Agreement and deliver the Loan Agreement and the Regulatory Agreement to the Borrower and the Trustee.

Section 1.5--Acceptance of the Deeds of Trust and Notes. That the Deeds of Trust, the Assignments of Leases and Rents and the Notes are hereby accepted by the Department.

Section 1.6--Approval, Execution and Delivery of the Assignments. That the form and substance of the Assignments are hereby approved and that the authorized representatives of the Department named in this Resolution each are hereby authorized to execute, attest and affix the Department's seal to the Assignments and to deliver the Assignments to the Trustee.

Section 1.7--Approval, Execution and Delivery of the Purchase Agreement. That the form and substance of the Purchase Agreement is hereby approved, and that the authorized representatives of the Department named in this Resolution each are authorized hereby to execute and deliver the Purchase Agreement and to deliver the Purchase Agreement to the Borrower and the Purchaser.

Section 1.8--Taking of Any Action; Execution and Delivery of Other Documents. That the authorized representatives of the Department named in this Resolution each are authorized hereby to take any actions and to execute, attest and affix the Department's seal to, and to deliver to the appropriate parties, all such other agreements, commitments, assignments, bonds, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, notices of acceptance, written requests and other papers, whether or not mentioned herein, as they or any of them consider to be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution.

Section 1.9--Exhibits Incorporated Herein. That all of the terms and provisions of each of the documents listed below as an exhibit shall be and are hereby incorporated into and made a part of this Resolution for all purposes:

- Exhibit B - Indenture
- Exhibit C - Loan Agreement
- Exhibit D - Regulatory Agreement
- Exhibit E - Assignments
- Exhibit F - Purchase Agreement

Section 1.10--Power to Revise Form of Documents. That notwithstanding any other provision of this Resolution, the authorized representatives of the Department named in this Resolution each are authorized hereby to make or approve such revisions in the form of the documents attached hereto as exhibits as, in the judgment of such authorized representative or authorized representatives, and in the opinion of Vinson & Elkins L.L.P., Bond Counsel to the Department, may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, such approval to be evidenced by the execution of such documents by the authorized representatives of the Department named in this Resolution.

Section 1.11--Authorized Representatives. That the following persons are each hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article I: Chairman of the Board, Executive Director of the Department, Deputy Executive Director of the Department, Chief Financial Officer of the Department, Director of Bond Finance of the Department, Director of Multifamily Finance of the Department, the Secretary of the Board, and the Assistant Secretary of the Board.

Section 1.12--Conditions Precedent. That the issuance of the Bonds shall be further subject to, among other things: (a) the Project's meeting all underwriting criteria of the Department, to the satisfaction of the Executive Director; and (b) the execution by the Borrower and the Department of contractual arrangements satisfactory to the Department staff requiring that community service programs will be provided at the Project.

ARTICLE II

APPROVAL AND RATIFICATION OF CERTAIN ACTIONS

Section 2.1--Approval and Ratification of Application to Texas Bond Review Board. That the Board hereby ratifies and approves the submission of the application for approval of state bonds to the Texas Bond Review Board on behalf of the Department in connection with the issuance of the Bonds in accordance with Chapter 1231, Texas Government Code.

Section 2.2--Approval of Submission to the Attorney General of Texas. That the Board hereby authorizes, and approves the submission by the Department's Bond Counsel to the Attorney General of the State of Texas, for his approval, of a transcript of legal proceedings relating to the issuance, sale and delivery of the Bonds.

Section 2.3--Certification of the Minutes and Records. That the Secretary and the Assistant Secretary of the Board hereby are severally authorized to certify and authenticate minutes and other records on behalf of the Department for the Bonds and all other Department activities.

Section 2.4--Authority to Invest Proceeds. That the Department is authorized to invest and reinvest the proceeds of the Bonds and the fees and revenues to be received in connection with the

financing of the Project in accordance with the Indenture and to enter into any agreements relating thereto only to the extent permitted by the Indenture.

Section 2.5--Approving Initial Rents. That the initial maximum rent charged by the Borrower for 100% of the units of the Project shall not exceed the amounts attached as Exhibit H to the Regulatory Agreement and shall be annually redetermined by the Issuer, as stated in Section 7.13 of the Loan Agreement.

Section 2.6--Ratifying Other Actions. That all other actions taken by the Executive Director of the Department and the Department staff in connection with the issuance of the Bonds and the financing of the Project are hereby ratified and confirmed.

ARTICLE III CERTAIN FINDINGS AND DETERMINATIONS

Section 3.1--Findings of the Board. That in accordance with Section 2306.223 of the Act, and after the Department's consideration of the information with respect to the Project and the information with respect to the proposed financing of the Project by the Department, including but not limited to the information submitted by the Borrower, independent studies commissioned by the Department, recommendations of the Department staff and such other information as it deems relevant, the Board hereby finds:

(a) Need for Housing Development.

(i) that the Project is necessary to provide needed decent, safe, and sanitary housing at rentals or prices that individuals or families of low and very low income or families of moderate income can afford,

(ii) the Borrower will supply well-planned and well-designed housing for individuals or families of low and very low income or families of moderate income,

(iii) the Borrower is financially responsible,

(iv) the financing of the Project is a public purpose and will provide a public benefit, and

(v) the Project will be undertaken within the authority granted by the Act to the housing finance division and the Borrower.

(b) Findings with Respect to the Borrower.

(i) that the Borrower, by operating the Project in accordance with the requirements of the Regulatory Agreement, will comply with applicable local building requirements and will supply well-planned and well-designed housing for individuals or families of low and very low income or families of moderate income,

(ii) that the Borrower is financially responsible and has entered into a binding commitment to repay the loan made with the proceeds of the Bonds in accordance with its terms, and

(iii) that the Borrower is not, and will not enter into a contract for the Project with, a housing developer that: (A) is on the Department's debarred list, including any parts of that list that are derived from the debarred list of the United States Department of Housing and Urban

Development; (B) breached a contract with a public agency; or (C) misrepresented to a subcontractor the extent to which the developer has benefited from contracts or financial assistance that has been awarded by a public agency, including the scope of the developer's participation in contracts with the agency and the amount of financial assistance awarded to the developer by the Department.

(c) Public Purpose and Benefits.

(i) that the Borrower has agreed to operate the Project in accordance with the Loan Agreement and the Regulatory Agreement, which require, among other things, that the Project be occupied by individuals and families of low and very low income and families of moderate income, and

(ii) that the issuance of the Bonds to finance the Project is undertaken within the authority conferred by the Act and will accomplish a valid public purpose and will provide a public benefit by assisting individuals and families of low and very low income and families of moderate income in the State of Texas to obtain decent, safe, and sanitary housing by financing the costs of the Project, thereby helping to maintain a fully adequate supply of sanitary and safe dwelling accommodations at rents that such individuals and families can afford.

Section 3.2--Determination of Eligible Tenants. That the Board has determined, to the extent permitted by law and after consideration of such evidence and factors as its deems relevant, the findings of the staff of the Department, the laws applicable to the Department and the provisions of the Act, that eligible tenants for the Project shall be (1) individuals and families of low and very low income, (2) persons with special needs, and (3) families of moderate income, with the income limits as set forth in the Loan Agreement and the Regulatory Agreement.

Section 3.3--Sufficiency of Mortgage Loan Interest Rate. That the Board hereby finds and determines that the interest rate on the loan established pursuant to the Loan Agreement will produce the amounts required, together with other available funds, to pay for the Department's costs of operation with respect to the Bonds and the Project and enable the Department to meet its covenants with and responsibilities to the holders of the Bonds.

Section 3.4--No Gain Allowed. That, in accordance with Section 2306.498 of the Act, no member of the Board or employee of the Department may purchase any Bond in the secondary open market for municipal securities.

Section 3.5--Waiver of Rules. That the Board hereby waives the rules contained in Sections 35 and 39, Title 10 of the Texas Administrative Code to the extent such rules are inconsistent with the terms of this Resolution and the bond documents authorized hereunder.

ARTICLE IV

GENERAL PROVISIONS

Section 4.1--Limited Obligations. That the Bonds and the interest thereon shall be limited obligations of the Department payable solely from the trust estate created under the Indenture, including the revenues and funds of the Department pledged under the Indenture to secure payment of the Bonds and under no circumstances shall the Bonds be payable from any other revenues, funds, assets or income of the Department.

Section 4.2--Non-Governmental Obligations. That the Bonds shall not be and do not create or constitute in any way an obligation, a debt or a liability of the State of Texas or create or constitute a

pledge, giving or lending of the faith or credit or taxing power of the State of Texas. Each Bond shall contain on its face a statement to the effect that the State of Texas is not obligated to pay the principal thereof or interest thereon and that neither the faith or credit nor the taxing power of the State of Texas is pledged, given or loaned to such payment.

Section 4.3--Effective Date. That this Resolution shall be in full force and effect from and upon its adoption.

Section 4.4--Notice of Meeting. Written notice of the date, hour and place of the meeting of the Board at which this Resolution was considered and of the subject of this Resolution was furnished to the Secretary of State and posted on the Internet for at least seven (7) days preceding the convening of such meeting; that during regular office hours a computer terminal located in a place convenient to the public in the office of the Secretary of State was provided such that the general public could view such posting; that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof was discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended; and that written notice of the date, hour and place of the meeting of the Board and of the subject of this Resolution was published in the Texas Register at least seven (7) days preceding the convening of such meeting, as required by the Administrative Procedure and Texas Register Act, Chapters 2002 and 2002, Texas Government Code, as amended. Additionally, all of the materials in the possession of the Department relevant to the subject of this Resolution were sent to interested persons and organizations, posted on the Department's website, made available in hard-copy at the Department, and filed with the Secretary of State for publication by reference in the Texas Register not later than seven (7) days before the meeting of the Board as required by Section 2306.032, Texas Government Code, as amended.

PASSED AND APPROVED this ____ day of November, 2002.

By: _____
Michael E. Jones, Chairman

[SEAL]

Attest: _____
Delores Groneck, Secretary

EXHIBIT A

DESCRIPTION OF PROJECT

Owner: Greenland Apartments Limited Partnership, a Texas limited partnership

Project: The Project is a 252-unit multifamily facility to be known as Greenland Apartments and to be located at the southwest corner of Green Land Way and Barker Cypress Road in Harris County, Texas. The Project will include a total of 23 two-story residential apartment buildings with a total of approximately 257,216 net rentable square feet and an average unit size of approximately 1,021 square feet. The unit mix will consist of:

12 one-bedroom/one-bath units

32 one-bedroom/one-and-one-half bath units

40 two-bedroom/two-bath units

112 two-bedroom/one-and-one-half bath units

56 three-bedroom/two-and-one-half bath units

252 Total Units

Unit sizes will range from approximately 684 square feet to approximately 1,143 square feet.

Common areas will include a swimming pool, a children's play area, and a community building with kitchen facilities, laundry facilities, vending area, fitness center and telephones. All ground units will be wheelchair accessible.

Greenland Apartments

Estimated Sources & Uses of Funds

Sources of Funds

Bond Proceeds, Series 2002A-1 Bonds (Senior Tax-Exempt)	\$ 9,680,000
Bond Proceeds, Series 2002A-2 Bonds (Senior Taxable)	\$ 1,600,000
Bond Proceeds, Series 2002B Bonds (Subordinate Tax-Exempt)	\$ 2,820,000
LIHTC Equity	5,050,085
GIC Income	160,603
Interim NOI	604,718
Deferred Developer's Fee	1,499,738
Total Sources	<u><u>\$ 21,415,144</u></u>

Uses of Funds

Deposit to Mortgage Loan Fund (Construction funds)	-
Capitalized Interest (Constr. Interest & Taxable Tail Interest)	1,732,000
Marketing	250,000
Developer's Overhead & Fee (Fee & Note)	2,293,049
Costs of Issuance	
Direct Bond Related	265,825
Bond Purchaser Costs	422,750
Other Transaction Costs	130,130
Real Estate Closing Costs	198,908
Total Uses	<u><u>\$ 5,292,662</u></u>

Estimated Costs of Issuance of the Bonds

Direct Bond Related

TDHCA Issuance Fee (0.50% of Issuance)	\$ 70,500
TDHCA Application Fee	11,000
TDHCA Bond Compliance Fee (\$25 per unit)	6,300
TDHCA Bond Counsel and Direct Expenses (Note 1)	70,000
TDHCA Financial Advisor and Direct Expenses	35,000
Disclosure Counsel (\$5k Pub. Offered, \$2.5k Priv. Placed. See Note 1)	2,500
Borrower's Bond Counsel	45,000
Underwriting Agent	-
Underwriter's Counsel	5,000
Trustee's Fees (Note 1)	6,500
Trustee's Counsel (Note 1)	5,000
Attorney General Transcript Fee (\$1,250 per series, max. of 2 series)	2,500
Texas Bond Review Board Application Fee	500
Texas Bond Review Board Issuance Fee (.025% of Reservation)	3,525
TEFRA Hearing Publication Expenses	2,500
Total Direct Bond Related	<u><u>\$ 265,825</u></u>

Bond Purchase Costs

Loan Origination Fee (SunAmerica @ 1.75% of Issuance)	246,750
Interim Credit Facility Fee (SunAmerica @ 0.50% of Issuance x 2 years)	141,000

Greenland Apartments

SunAmerica Intercredit Facility Counsel	35,000
Total	<u>\$ 422,750</u>

Other Transaction Costs

Bridge Loan Fee (SunAmerica @ 0.221% of Issuance)	31,161
SunAmerica Counsel	35,000
Upfront Facility Fees	35,250
Tax Credit Determination Fee (4% annual tax cr.)	24,939
Tax Credit Application Fee (\$15/u)	3,780
Total	<u>\$ 130,130</u>

Real Estate Closing Costs

Title & Recording (Const.& Perm.)	98,908
Property Taxes	100,000
Total Real Estate Costs	<u>\$ 198,908</u>

Estimated Total Costs of Issuance \$ 1,017,613

Costs of issuance of up to two percent (2%) of the principal amount of the Bonds may be paid from Bond proceeds. Costs of issuance in excess of such two percent must be paid by an equity contribution of the Borrower.

Note 1: These estimates do not include direct, out-of-pocket expenses (i.e. travel). Actual Bond Counsel and Disclosure Counsel are based on an hourly rate and the above estimate does not include on-going administrative fees.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTI FAMILY CREDIT UNDERWRITING ANALYSIS**

DATE: November 4, 2002 **PROGRAM:** 4% LIHTC **FILE NUMBER:** 02443
MRB 2002-012

DEVELOPMENT NAME

Greenland Park

APPLICANT

Name: Greenland Apartments, LP **Type:** For Profit Non-Profit Municipal Other
Address: 3101 Bee Caves Road, Suite #270 **City:** Austin **State:** TX
Zip: 78746 **Contact:** Brent Stewart **Phone:** (512) 477-9900 **Fax:** (512) 328-9616

PRINCIPALS of the APPLICANT

Name: TCR Greenland Partners (%) 0.1 **Title:** Managing General Partner
Name: SunAmerica (%) 99.9 **Title:** Limited Partner
Name: TCR 2002 Housing Inc. (TCR 2002) (%) n/a **Title:** 1% GP of Managing GP
Name: Terwilliger Partners (%) n/a **Title:** 37% LP of Managing GP
Name: J Ronald Terwilliger (%) n/a **Title:** 51% owner of TCR 2002
Name: Kenneth J Valach (%) n/a **Title:** 37% LP of Managing GP & 49% owner of TCR 2002
Name: Christopher J Bergmann (%) n/a **Title:** 15% LP of Managing GP
Name: Scott C Wise (%) n/a **Title:** 10% LP of Managing GP

GENERAL PARTNER

Name: TCR Greenland Partners **Type:** For Profit Non-Profit Municipal Other
Address: 3101 Bee Caves Road, Suite #270 **City:** Austin **State:** TX
Zip: 78746 **Contact:** Brent Stewart **Phone:** (512) 477-9900 **Fax:** (512) 328-9616

PROPERTY LOCATION

Location: Southwest corner of Barker Cypress Road and Greenland Way **QCT** **DDA**
City: Houston **County:** Harris **Zip:** 77084

REQUEST

<u>Amount</u>	<u>Interest Rate</u>	<u>Amortization</u>	<u>Term</u>
) \$652,220	n/a	n/a	n/a
(\$12,500,000	6.10%	30 yrs	33 yrs
) \$1,600,000	8.0%	30 yrs	33 yrs

Other Requested Terms:) Annual ten-year allocation of low-income housing tax credits
 (Tax-Exempt Mortgage Revenue Bonds
) Taxable Mortgage Revenue Bonds

Proposed Use of Funds: New Construction

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS**

SITE DESCRIPTION

Size: 14.5 acres 631,620 square feet **Zoning/ Permitted Uses:** n/a (Houston)
Flood Zone Designation: Zone X **Status of Off-Sites:** Partially Improved

DESCRIPTION of IMPROVEMENTS

Total Units: 252 **# Rental Buildings:** 21 **# Common Area Bldgs:** 2 **# of Floors:** 2 **Age:** n/a yrs **Vacant:** n/a at / /

Number	Bedrooms	Bathroom	Size in SF
12	1	1	684
24	1	1.5	795
8	1	1.5	826
112	2	2.5	1,027
32	2	2	1,102
8	2	2	1,118
56	3	2.5	1,143

Net Rentable SF: 257,136 **Av Un SF:** 1,020 **Common Area SF:** 4,150 **Gross Bldg SF** 261,286

Property Type: Multifamily SFR Rental Elderly Mixed Income Special Use

CONSTRUCTION SPECIFICATIONS

STRUCTURAL MATERIALS

Wood frame on a post-tensioned concrete slab on grade, 30% brick veneer/70% Hardiplank siding exterior wall covering, drywall interior wall surfaces, composite shingle roofing

APPLIANCES AND INTERIOR FEATURES

Carpeting & vinyl flooring, range & oven, hood & fan, garbage disposal, dishwasher, refrigerator, microwave oven, fiberglass tub/shower, washer & dryer connections, cable, laminated counter tops, individual water heaters

ON-SITE AMENITIES

Community room, management offices, fitness & laundry facilities, restrooms, computer/business center, central mailroom, swimming pool, equipped children's play area, perimeter fencing with limited access gate

Uncovered Parking: 500 spaces **Carports:** 24 spaces **Garages:** n/a spaces

OTHER SOURCES of FUNDS

BOND FINANCING

Source: Kirkpatrick Pettis **Contact:** Andrew B. Kane

Series A: Tax-Exempt \$9,680,000 **Interest Rate:** 6.25% current estimate

Series B: Taxable \$1,600,000 **Interest Rate:** 8.0%

Series C: Tax-Exempt \$2,820,000 **Interest Rate:** 6.25% current estimate

Additional Information: 3 year interest only period; Series C Bonds will subordinate to Series A & B

Amortization: 30 yrs **Term:** 33 yrs **Commitment:** Proposal Firm Conditional

Annual Payment: \$1,058,199 **Lien Priority:** 1st **Commitment Date** 10/ 25/ 2002

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS**

LIHTC SYNDICATION

Source: SunAmerica	Contact: Michael L Fowler
Address: 1 SunAmerica Center, Century City	City: Los Angeles
State: CA	Zip: 90067
Phone: (310) 772-6000	Fax: (310) 772-6179
Net Proceeds: \$5,050,085	Net Syndication Rate (per \$1.00 of 10-yr LIHTC) 81¢
Commitment <input checked="" type="checkbox"/> Proposal <input type="checkbox"/> Firm <input type="checkbox"/> Conditional	Date: 09/ 27/ 2002
Additional Information: \$0.805 adjustor for award below/above \$624,091; Bridge Loan of up to \$3,030,051 @ AFR	

APPLICANT EQUITY

Amount: \$1,478,388	Source: Deferred developer fee
Amount: \$160,603	Source: GIC
Amount: \$604,718	Source: Interim NOI

VALUATION INFORMATION

ASSESSED VALUE

Land: 67.76 acres	\$966,180	Assessment for the Year of:	2002
1 acre:	\$14,259	Valuation by:	Harris County Appraisal District
Prorated Value: 14.5 acres	\$206,753	Tax Rate:	3.27627

EVIDENCE of SITE or PROPERTY CONTROL

Type of Site Control: Earnest Money Contract	
Contract Expiration Date: 01/ 17/ 2003	Anticipated Closing Date: 12/ 01/ 2002
Acquisition Cost: \$ 1,736,955	Other Terms/Conditions: \$2.75 psf; \$5K earnest money
Seller: William S O'Donnell, Trustee & Strathmore Building Company	Related to Development Team Member: No

REVIEW of PREVIOUS UNDERWRITING REPORTS

No previous reports.

PROPOSAL and DEVELOPMENT PLAN DESCRIPTION

Description: Greenland Park is a proposed new construction development of 252 units of affordable housing located in northwest Houston. The development is comprised of 21 residential buildings as follows:

- Four Building Type I with two one-bedroom units and 10 two-bedroom units;
- Fourteen Building Type II with eight two-bedroom units and four three-bedroom units; and
- Three Building Type III with twelve one-bedroom units.

Based on the site plan the apartment buildings are distributed evenly throughout the site with the community building and swimming pool located near the entrance to the site. A separate laundry and mail building will be located near the center of the site.

Supportive Services: The Applicant has contracted with Apartment Life, Inc. to provide the following supportive services to tenants through their CARES Program: welcome visits, resident satisfaction surveys, community activities, community service projects, children/youth programs, resident care, and resident appreciation events. These services will be provided at no cost to tenants. The contract requires the Applicant to provide an average size apartment at no cost for the CARES Team, a monthly fee of \$1 per unit

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(minimum of \$350), and a budget for all approved CARES activities and services in addition to the monthly fee. The Applicant has budgeted \$18,000 per year for supportive services.

Schedule: The Applicant anticipates construction to begin in January of 2003, to be completed in March of 2004, to be placed in service in December of 2004, and to be substantially leased-up in December of 2004.

POPULATIONS TARGETED

Income Set-Aside: The Applicant has elected the 40% at 60% or less of area median gross income (AMGI) set-aside and as a Priority 2 private activity bond lottery project 100% of the units must have rents restricted to be affordable to households at or below 60% of AMGI. All of the units (100% of the total) will be reserved for low-income tenants earning 60% or less of AMGI.

Special Needs Set-Asides: There are no plans to reserve units exclusively for special needs tenants, but the development will be constructed to comply with the accessibility standards required by TDHCA.

Compliance Period Extension: By virtue of the tax-exempt bond/LIHTC financing, the development is obligated to remain affordable throughout a 30-year compliance period.

MARKET HIGHLIGHTS

A market feasibility study dated September 1, 2002 and revised as of October 16, 2002 was prepared by REVAC, Inc. and highlighted the following findings:

Definition of Primary Market: "The subject property is in west Harris County, approximately 20 miles from the Houston CBD. Inasmuch as the primary mode of transportation is private automobile, competitive properties were considered those within the following boundaries: North: West Little York; South: IH-10; East: SH-6; West: Peek Road (Proposed Grand Parkway). Demographic information within a 3.35 mile radius from the approximate center of the neighborhood (Fry and Clay Roads) was used." (p. 22 REVISED) It should be noted that the original market analysis indicated a 3 mile radius, with the subject as the center point, for the PMA.

Total Local/Submarket Demand for Rental Units:

ANNUAL INCOME-ELIGIBLE SUBMARKET DEMAND SUMMARY				
Type of Demand	Market Analyst		Underwriter	
	Units of Demand	% of Total Demand	Units of Demand	% of Total Demand
Household Growth	67	13%	67	4%
Resident Turnover	982	87%	1,536	96%
TOTAL ANNUAL DEMAND	1,049	100%	1,603	100%

Ref: p. 50 REVISED

Capture Rate: The market analyst concluded a capture rate of an acceptable 24%. The Underwriter calculated a concentration capture rate of 15.7% based upon a supply of unstabilized comparable affordable units of 252 divided by a demand of 1,603.

Market Rent Comparables: The market analyst surveyed all apartments within a three-mile radius of the subject and undertook a detailed survey and inspection of six (6) most comparable properties. (p. 18)

RENT ANALYSIS (net tenant-paid rents)					
Unit Type (% AMI)	Proposed	Program Max	Differential	Market	Differential
1-Bedroom (684 SF)	\$615	\$614	+\$1	\$665	-\$50
1-Bedroom (795 SF)	\$615	\$614	+\$1	\$750	-\$135
1-Bedroom (826 SF)	\$615	\$614	+\$1	\$765	-\$150
2-Bedroom (1,027 SF)	\$734	\$734	\$0	\$865	-\$131
2-Bedroom (1,102 SF)	\$734	\$734	\$0	\$890	-\$156
2-Bedroom (1,128 SF)	\$734	\$734	\$0	\$900	-\$166
3-Bedroom (1,143 SF)	\$845	\$845	\$0	\$1,040	-\$195

(NOTE: Differentials are amount of difference between proposed rents and program limits and average market rents, e.g., proposed

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rent =\$500, program max =\$600, differential = -\$100)

Submarket Occupancy Rates: A summary of 34 multifamily housing communities within a three-mile radius indicates average occupancy of 96.4%. (p. 39) “More importantly, the apartments considered most comparable [six development] to the subject are 97.2% occupied, on average.” (p. 40)

Absorption Projections: “Absorption data for the subject’s delineated submarket was not available.” (p. 39) “However, the absorption of the subject’s 252 LIHTC units should be fairly strong given the low rents and good quality, an option not previously available. Consequently, an absorption period of less than one (1) year is considered most likely and reasonably probable.” (p. 41)

Known Planned Development: “Of particular importance, no rent restricted units have been built, or currently exist, within a three-mile radius.” (p. 38) “The subject property is the only planned LIHTC complex within a three-mile radius.” (p. 40)

Other Relevant Information: The income band for qualified households is indicated as a range of \$18,450 to \$38,640 based on 40% of household income applied to rent and a maximum household size of five persons. (p. 42)

The Underwriter found the market study provided sufficient information on which to base a funding recommendation.

SITE and NEIGHBORHOOD CHARACTERISTICS

Location: The subject is located along the southwest corner of Barker Cypress and Greenland Way, approximately 2.75 miles north of IH-10. This property is located in west Harris County, approximately 20 miles from the Houston CBD.

Population: The estimated 2002 population of a three-mile radius was 58,466 and is expected to increase to approximately 66,760 by 2007. Within the primary market area there were estimated to be 20,266 households in 2002.

Adjacent Land Uses:

- **North:** Vacant land and a driving range along Barker Cypress. Further north and ±1,000 feet west of Barker Cypress there are single family homes.
- **South:** Vacant land along Barker Cypress. The Barker Ridge subdivision is located to the southwest.
- **East:** Barker Cypress through to roughly 200 acres of vacant land through to a small private airport.
- **West:** A newly built elementary school through to Barkers Ridge subdivision.

Site Access: The subject site is located along two existing streets and is accessible from both. As per the proposed site plan, a single curb cut will be made along Barker Cypress and Greenland Way, respectively. The main entrance will be along Greenland Way. IH-10 bisects the southern portion of the neighborhood and allows for convenient access to all parts of Houston through connecting interstates and highways.

Public Transportation: METRO bus service is available within the area via the Park-N-Ride system. The nearest Park-N-Ride facility is located along/near Park Row/IH-10/SH-6, an approximate 5-10 minute commute from the subject site.

Shopping & Services: The neighborhood is within the Katy ISD. Institutions of higher learning in the area include the University of Houston – Cinco Ranch and Houston Community College, both located within a 15 –minute commute. There are 52 retail centers located within a three-mile radius of the subject. Recreational amenities are conveniently located within or in proximity to the subject’s neighborhood. The neighborhood is served by two hospitals, both within an approximate 10-minute commute.

Site Inspection Findings: TDHCA staff performed a site inspection on October 3, 2002 and found the location to be excellent for the proposed development.

HIGHLIGHTS of SOILS & HAZARDOUS MATERIALS REPORT(S)

A Phase I Environmental Site Assessment report dated July 30, 2002 was prepared by Envirotest, Ltd. and contained the following findings and recommendations:

“This assessment has revealed no recognized environmental conditions in connection with the property.”

OPERATING PROFORMA ANALYSIS

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Income: Although the Applicant included secondary income of \$20 per unit per month in their calculation of effective gross income, their estimate is within 5% of the Underwriter's estimate. It should be noted that, the Applicant was asked to support their higher estimate and submitted an operating statement for Park @ Fort Bend, a development owned by an affiliate in the Houston area, as support for their secondary income figure. However, the statement covered only a nine-month period and the development is in the lease-up stage. Due to the limited nature of the comparative information provided, the Underwriter's analysis includes only the maximum secondary income guideline amount of \$15 per unit per month.

Expenses: The Applicant's total expense figure is also within 5% of the Underwriter's estimate. However, several of the Applicant's line-items differ significantly as compared to the Underwriter's estimates. These include: management fee (\$19K lower); utilities (\$21K lower); and initially general and administrative (\$25K lower reduced to \$4K lower). Upon request, the Applicant submitted a sample management contract in support of the 4% management fee utilized in their total expense estimate. However, the contract indicates a 4% fee is valid only through the lease-up stage and a 5% fee will be charged thereafter. Therefore, the Underwriter's management fee estimate maintains the Department's minimum guideline of 5% of effective gross income. The Applicant provided a nine-month historical operating expense history for Park @ Fort Bend which reflected a \$146 per unit annualized utility expense. The historical information provided by the Applicant is limited to a partial year, and the lease-up period is a period where utility expenses may be more volatile. In addition, data from IREM for the Houston area suggests an average utility cost of twice what the Applicant proposed. Thus the Underwriter utilized a calculation of \$217 per unit based upon a standard percentage of the utility allowance for the area. In contrast, general and administrative expenses for a development are more typically higher at the beginning of lease-up and are often more predictable based upon the management company or operator rather than geographic or industry averages. Therefore the annualized average general and administrative expense for Park @ Fort Bend of \$242 per unit was used by the Underwriter rather than the TDHCA database average of \$326 per unit.

Conclusion: The Applicant's net operating income is within 5% of the Underwriter's estimate. Because the Applicant's effective gross income, total operating expense, and net operating income estimates are all within 5% of the Underwriter's estimates, the Applicant's proforma is used to determine the development's debt service capacity. Based on the Applicant's estimate of annual debt service attributable to the bonds, the development will have a bonds-only debt coverage ratio of 1.12, which is within the Department's DCR guideline of 1.10 to 1.25. It should be noted, however, that the trustee's fees, TDHCA fees and supportive services fees are all reflected "below the line" and their inclusion in an aggregate debt coverage ratio would reflect an aggregate DCR of 1.07. If the supportive services and compliance fees were included "above the line" a 1.09 bonds only DCR would result suggesting a modest reduction in the total debt may be required through the mandatory redemption process when the debt converts to permanent.

CONSTRUCTION COST ESTIMATE EVALUATION

Land Value: Though significantly higher than the prorated assessed value, the acquisition price is assumed to be reasonable since the acquisition is an arm's-length transaction.

Off-Site Costs: The Applicant claimed off-site costs of only \$150,000 for a sewage system. However, the submitted third party engineer's cost estimate indicates a total of \$337,405 for the sewage system with a 10% contingency and an engineering fee. The Underwriter has adjusted both the Applicant's total development cost budget and the Underwriter's budget to reflect the full estimate of \$337,405. The Applicant has indicated that the local MUD will reimburse the developer for a portion of the costs resulting in a net off-site cost of \$150,000. The anticipated \$187,405 MUD reimbursement is treated as a source of funds in this analysis rather than netted from the cost as reflected in the application in order to reflect the contingent but necessary participation of the MUD with regards to the reimbursement of these offsite costs. Receipt, review and acceptance of evidence that the MUD will reimburse the developer for a portion of the estimated off-site costs (approximately \$187,405) is a condition of this report.

Sitework Cost: The Applicant's claimed sitework costs of \$6,486 per unit are considered reasonable compared to historical sitework costs for multifamily projects.

Direct Construction Cost: The Applicant's direct construction cost estimate is \$423K, or 4%, lower than the Underwriter's Marshall & Swift *Residential Cost Handbook*-derived estimate.

Ineligible Costs: The Applicant included \$50K of a total of \$250K in marketing as an eligible cost without

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providing any justification for how such costs could be considered eligible. The Underwriter moved this cost to ineligible costs, resulting in an equivalent reduction in the Applicant's eligible basis. The Applicant included a substantial amount of construction period interest in the development budget but appropriately restricted the amount considered to be eligible to less than one year of fully drawn interest. It appears that the Applicant's development budget includes all bond interest and does not net out interest income on unutilized bond proceeds but rather shows this income as a source of funds.

Fees: The Applicant's general requirements and contractor's profit each exceed the 6% maximum allowed by LIHTC guidelines based on their own construction costs by a total of \$18,000. Consequently the Applicant's eligible fees in these areas have been reduced with the overage effectively moved to ineligible costs. The Applicant's developer fees also exceed 15% of the Applicant's adjusted eligible basis and therefore the eligible portion of the Applicant's developer fee must be reduced by \$10,200.

Reserves: The Applicant only included \$63K in rent-up reserves within the total development budget. This represents less than one-months worth of operating expense without any interest expense or debt service and is exceeding low. The Underwriter utilized a higher minimum two-month minimum operating expense plus debt service amount for total development cost comparison.

Conclusion: Overall, the Applicant's total development cost is within 5% of the Underwriter's estimate. Therefore, the Applicant's total development cost estimate, as adjusted, will be used to determine the development's eligible basis and total funding need.

FINANCING STRUCTURE ANALYSIS

The Applicant intends to finance the development with five types of financing: a bond-financed interim to permanent loan, syndicated LIHTC equity, GIC/operating income, and deferred developer's fees.

Bonds: According to a proposal by SunAmerica Affordable Housing Partners, Inc., the bond indenture will include \$9,680,000 of senior lien tax-exempt bonds (Series A), \$1,600,000 of senior lien taxable bonds (Series B), and \$2,820,000 of subordinate lien tax-exempt bonds (Series C). The structure of the bonds will include a construction/permanent loan with a three-year interest-only period followed by a 30-year amortization period. As of the date of the proposal, SunAmerica estimated an interest rate of 6.10% on the tax-exempt Series A & C bonds and 8% on the taxable Series B bonds. The letter of interest did not specify the repayment priority structure of the bond but it is anticipated that the taxable Series B will have priority redemption. A second letter of interest was provided proposing Kirkpatrick Pettis as the purchaser of the bonds in the same amounts though the Series A bonds have been reclassified as Series A-1 tax-exempt bonds, the Series B bonds as Series A-2 taxable bonds, and the Series C bonds as Series B tax-exempt bonds. In this letter it was assumed that there would be a Bond Purchase Agreement and Payment with AIG SunAmerica, Inc. and a payment Guarantee from AIG Corporation but no additional significant terms were addressed. A preliminary sources and uses and accompanying financial schedules were subsequently provided on October 30, 2002. The schedules reflect a tax-exempt interest rate of 6.25% while the taxable bond interest rate remains 8%. The schedules also reflect that the tax-exempt Series B (formerly known as Series C) will begin repayment of principal and redemption of bonds at the same time the taxable Series A-2 begins to repay and redeem bonds though the A-2 Series will be repaid and redeemed in their entirety prior to any repayment or redemption of the A-1 Series tax-exempt bonds. The schedules indicate that the taxable series will be fully redeemed within ten years after the three year initial interest only period ends. The redemption schedules provide for various uneven but growing redemption amounts that will be facilitated by a roughly constant underlying debt service amount including TDHCA compliance fees but not supportive services that ranges from \$1,074,587 to \$1,082,518 annually. This range is \$3K to \$13K less than what was forecast as fixed debt service without supportive service fees by the Applicant and Underwriter.

LIHTC Syndication: SunAmerica Affordable Housing Partners, Inc., has also offered terms for syndication of the tax credits. The commitment letter shows net proceeds are anticipated to be \$5,050,085 based on a syndication factor of 81% and total annual tax credits of \$624,091. The actual equity payment by SunAmerica will be adjusted up or down based on the actual amount of tax credits received using the rate of 80.5%. The funds would be disbursed in a five-phased pay-in schedule:

1. 2% upon execution of the partnership agreement;
2. \$4,155,351 in the form of a bridge loan with no interest payable on the principle balance up to \$3,030,051 and interest payable at AFR on the portion above \$3,030,051.

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3. 82% upon receipt of Certificate of Occupancy, used to repay bridge loan;
4. 12% upon achievement of 90% occupancy and 1.15 DCR for a period of three consecutive months, achievement of stabilization requirements under Bond Indenture, and submission of documents for processing of Forms 8609; and
5. 4% upon receipt of Forms 8609.

MUD Reimbursement: Although the application did not itemize as a source of funds the anticipated \$187,405 from the local MUD as reimbursement for offsite utility construction costs, the Underwriter has recast this amount, which was originally netted from the offsite cost, as an anticipated source of funds in both the Applicant's and Underwriter's analysis. As discussed in the offsite cost section above, this treatment of these costs better reflect the total costs and sources of funds for the development.

GIC/Operating Income: The Applicant has proposed \$749,850 in GIC earnings and interim net operating income as a source of funds. A telephone conversation with a representative of the developer revealed that \$160,603 is attributable to GIC income and \$604,718 is anticipated construction period cash flow. However, the Applicant only budgeted an extremely lean \$63K for lease-up operating expense reserve. Thus this level of construction cash flow seems dubious and the Underwriter chose to reflect the construction period cash flow amount as more likely additional deferred developer fee in the recommended sources of funds. On the other hand, the GIC income amount which typically is also reclassified as deferred developer fee, remains as a source of funds as it has not already been netted from construction period interest and the amount of eligible construction period interest does not appear to be overly optimistic based upon the Department's guidelines.

Deferred Developer's Fees: The Applicant's proposed deferred developer's fees of \$1,478,388 (exclusive of GIC income and construction period cash flow) amount to 65% of the total fees.

Financing Conclusions: As noted above, the Applicant's total development cost, adjusted by the Underwriter, is used to determine an eligible basis of \$17,501,841 and a recommended annual tax credit allocation of \$640,567. The recommended allocation is \$16,476 more than originally requested due to the Applicant's use of an applicable percentage rate of only 3.55% instead of the current underwriting rate of 3.66%. After the Underwriter identified this error, the Applicant submitted a revised cost schedule utilizing a higher applicable percentage rate resulting in a revised LIHTC request of \$652,220 annually. The recommended allocation is less than the revised request due to the Applicant's inclusion of ineligible costs and fees in their eligible basis calculation as discussed in the Construction Cost Estimates Evaluation section above.

While construction period cash flow is not considered, in this case, to be a reliable source of funds, the Underwriter has accepted the anticipated GIC income as a source of funds. In addition the Underwriter has reflected the MUD reimbursement as a source of funds for the development.

The recommended financing structure results in the need for deferred developer fees totaling \$1,971,135, or 86% of total developer fees. Deferred fees in this amount do not appear to be repayable from cash flow within 10 years of stabilized operation, but may be repayable within 15 years. Should the development not receive the anticipated MUD reimbursement of \$187,405 nor the anticipated GIC income, there is sufficient developer fee remaining to defer. And although any additional deferred developer fees will add to the period of repayment, the total possible addition of deferred fees of \$348,005 combine to total just over 100% of the fee and thus related party contractor fee would have to be deferred however the combined potential deferral still appears to be repayable within 15 years.

The development's forecast aggregate DCR appears to be marginally below the 1.10 Department standard, but additional mitigation exists to suggest that the actual anticipated DCR is acceptable. The anticipated first year of amortizing debt service provided by Kirkpatrick Pettis is \$1,077,966 which is \$8K to \$9K less than the Applicant's and Underwriter's straight line forecasts for debt service including compliance fees but not supportive services. If the anticipated first year NOI of \$1,183,237 is reduced by the supportive service expense of \$18,000 and the resulting figure is used to calculate a DCR based upon the Kirkpatrick Pettis first year debt service amount, an acceptable 1.11 DCR results.

REVIEW of ARCHITECTURAL DESIGN

The elevation drawings for the residential buildings indicate attractive two-story structures with brick/siding exteriors and varied rooflines. All of the units offer adequate storage space and washer/dryer connections.

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IDENTITIES of INTEREST

The Applicant, developer, general contractor, and property manager are related entities. These are common identities of interest for LIHTC/MRB-funded developments.

APPLICANT'S/PRINCIPALS' FINANCIAL HIGHLIGHTS, BACKGROUND, and EXPERIENCE

Financial Highlights:

- The Applicant and General Partner are single-purpose entities created for the purpose of receiving assistance from TDHCA and therefore have no material financial statements.
- Terwilliger Partners, 37% owner of the General Partner submitted a balance sheet as of June 30, 2001 reporting total assets of \$1.9M consisting of cash, four division account balances, and investments in partnerships. No liabilities resulted in a net worth of \$1.9M. As the date of this statement is more than 12 months from the date of application, therefore, receipt, review and acceptance of financial statements for Terwilliger Partners dated no earlier than twelve months prior to the receipt of the 2002 4% LIHTC application for this development is a condition of this report.
- Kenneth J. Valach, Christopher J. Bergmann, and Scott C. Wise, principals of the General Partner, submitted collateral value statements through Trammel Crow Residential as of June 30, 2002. J. Ronald Terwilliger, also a principal of the General Partner, submitted collateral value statements through Trammel Crow Residential as of June 30, 2001 therefore, receipt, review and acceptance of financial statements for J. Ronald Terwilliger dated no earlier than twelve months prior to the receipt of the 2002 4% LIHTC application for this development is a condition of this report.

Background & Experience:

- The Applicant and General Partner are new entities formed for the purpose of developing the project.
- The principals of the General Partner have participated in numerous multifamily developments located in several states.

SUMMARY OF SALIENT RISKS AND ISSUES

- The recommended amount of deferred developer fee cannot be repaid within ten years, and any amount unpaid past ten years would be removed from eligible basis.

RECOMMENDATION

- RECOMMEND APPROVAL OF AN LIHTC ALLOCATION NOT TO EXCEED \$640,567 ANNUALLY FOR TEN YEARS, SUBJECT TO CONDITIONS.
- RECOMMEND ISSUANCE OF MULTIPLE SERIES TAX-EXEMPT BONDS OF \$12,500,000 AND TAXABLE BONDS OF \$1,600,000, AS REQUESTED, TO BE FULLY AMORTIZED OVER 30 YEARS WITH A TERM OF 33 YEARS. THE INTEREST RATE OF THE BONDS IS ANTICIPATED TO BE 6.25% AND 8.0%, RESPECTIVELY, SUBJECT TO CONDITIONS.

CONDITIONS

1. Receipt, review and acceptance of evidence that the MUD will reimburse the developer for a portion of the estimated off-site costs (approximately \$187,405).
2. Receipt, review and acceptance of financial statements for J Ronald Terwilliger and Terwilliger Partners dated no earlier than twelve months prior to the receipt of the 2002 4% LIHTC application for this development.

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Credit Underwriting Supervisor: _____ **Date:** November 4, 2002
Lisa Vecchietti

Director of Credit Underwriting: _____ **Date:** November 4, 2002
Tom Gouris

MULTIFAMILY FINANCIAL ASSISTANCE REQUEST: Comparative Analysis

Greenland Park, Houston, 4% LIHTC 02443/MFB 2002-012

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Net Rent per Unit	Rent per Month	Rent per SF	Tnt Pd Util	Wtr, Swr, Trsh
TC 60%	12	1	1	684	\$670	\$614	\$7,368	\$0.90	\$56.00	\$25.00
TC 60%	24	1	1.5	795	670	614	14,736	0.77	56.00	25.00
TC 60%	8	1	1.5	826	670	614	4,912	0.74	56.00	25.00
TC 60%	112	2	2.5	1,027	804	734	82,208	0.71	70.00	25.00
TC 60%	32	2	2	1,102	804	734	23,488	0.67	70.00	25.00
TC 60%	8	2	2	1,118	804	734	5,872	0.66	70.00	25.00
TC 60%	56	3	2.5	1,143	930	845	47,320	0.74	85.00	25.00
TOTAL:	252			1,020	\$809	\$738	\$185,904	\$0.72	\$70.89	\$25.00

INCOME Total Net Rentable Sq Ft: 257,136

POTENTIAL GROSS RENT

Secondary Income Per Unit Per Month: \$15.00
Other Support Income: 24 Carports

POTENTIAL GROSS INCOME

Vacancy & Collection Loss % of Potential Gross Income: -7.50%
Employee or Other Non-Rental Units or Concessions

EFFECTIVE GROSS INCOME

EXPENSES	% OF RGI	PER UNIT	PER SQ FT
General & Administrative	2.90%	\$242	\$0.24
Management	5.00%	418	0.41
Payroll & Payroll Tax	10.44%	872	0.85
Repairs & Maintenance	5.19%	434	0.42
Utilities	2.60%	217	0.21
Water, Sewer, & Trash	3.59%	300	0.29
Property Insurance	2.44%	204	0.20
Property Tax 3.27627	11.76%	983	0.96
Reserve for Replacements	2.39%	200	0.20
Other:	0.00%	0	0.00
TOTAL EXPENSES	46.31%	\$3,869	\$3.79

NET OPERATING INC 53.69% \$4,486 \$4.40

DEBT SERVICE

Bond-Financed Mortgage	50.50%	\$4,220	\$4.14
Trustee Fee	0.17%	\$14	\$0.01
TDHCA Admin. Fees	0.67%	\$56	\$0.05
Asset Oversight & Compliance Fee	0.48%	\$40	\$0.04
Supportive Services	0.85%	\$71	\$0.07
NET CASH FLOW	1.49%	\$125	\$0.12

AGGREGATE DEBT COVERAGE RATIO

BONDS-ONLY DEBT COVERAGE RATIO

ALTERNATIVE BONDS ONLYT DCR

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT
Acquisition Cost (site or bldng)		7.80%	\$6,892	\$6.75
Off-Sites		1.51%	1,339	1.31
Sitework		7.34%	6,486	6.36
Direct Construction		45.55%	40,277	39.47
Contingency	3.07%	1.62%	1,435	1.41
General Req'ts	5.86%	3.10%	2,741	2.69
Contractor's G & A	1.93%	1.02%	902	0.88
Contractor's Profi	5.86%	3.10%	2,741	2.69
Indirect Construction		3.69%	3,260	3.19
Ineligible Costs		8.69%	7,680	7.53
Developer's G & A	1.64%	1.15%	1,021	1.00
Developer's Profit	13.00%	9.14%	8,079	7.92
Interim Financing		4.87%	4,302	4.22
Reserves		1.43%	1,261	1.24
TOTAL COST		100.00%	\$88,415	\$86.65

Recap-Hard Construction Costs 61.73% \$54,581 \$53.49

SOURCES OF FUNDS

Series A	43.45%	\$38,413	\$37.65
Series B	7.18%	\$6,349	\$6.22
Series C	12.66%	\$11,190	\$10.97
Syndication Proceeds	22.67%	\$20,040	\$19.64
MUD Reimbursement	0.84%	\$744	\$0.73
GIC	0.72%	\$637	\$0.62
Consturction Period Cashflow	2.71%	\$2,400	\$2.35
Deferred Developer's Fee	6.64%	\$5,867	\$5.75
Additional (excess) Funds Required	3.14%	\$2,776	\$2.72
TOTAL SOURCES			

TDHCA	APPLICANT	PER SQ FT	PER UNIT	% OF RGI
\$2,230,848	\$2,231,112	\$0.22	\$227	2.70%
45,360	60,480	\$0.00	\$0	0.00%
0	0	\$0.00	\$0	0.00%
\$2,276,208	\$2,291,592	\$3.64	\$3,716	44.18%
(170,716)	(171,864)	\$4.60	\$4,695	55.82%
0	0	\$0.00	\$0	0.00%
\$2,105,492	\$2,119,728	\$0.22	\$227	2.70%
\$61,059	\$57,204	\$0.00	\$0	0.00%
105,275	86,039	\$0.00	\$0	0.00%
219,744	226,800	\$0.11	\$109	1.29%
109,253	104,028	\$0.07	\$71	0.85%
54,664	34,020	\$0.42	\$425	5.05%
75,600	69,300	\$0.00	\$0	0.00%
51,427	56,700	\$0.00	\$0	0.00%
247,686	252,000	\$0.00	\$0	0.00%
50,400	50,400	\$0.00	\$0	0.00%
0	0	\$0.00	\$0	0.00%
\$975,108	\$936,491	\$3.64	\$3,716	44.18%
\$1,130,385	\$1,183,237	\$4.60	\$4,695	55.82%
1.02	1.07			
1.06	1.12			
	1.11			

TDHCA	APPLICANT	PER SQ FT	PER UNIT	% of TOTAL
\$1,736,787	\$1,736,787	\$6.75	\$6,892	8.04%
337,405	337,405	1.31	1,339	1.56%
1,634,536	1,634,536	6.36	6,486	7.57%
10,149,741	9,726,696	37.83	38,598	45.03%
361,557	361,557	1.41	1,435	1.67%
690,674	690,674	2.69	2,741	3.20%
227,225	227,225	0.88	902	1.05%
690,674	690,674	2.69	2,741	3.20%
821,500	821,500	3.19	3,260	3.80%
1,935,479	1,935,479	7.53	7,680	8.96%
257,244	0	0.00	0	0.00%
2,035,805	2,293,049	8.92	9,099	10.61%
1,084,131	1,084,131	4.22	4,302	5.02%
317,872	62,837	0.24	249	0.29%
\$22,280,630	\$21,602,550	\$84.01	\$85,724	100.00%
\$13,754,407	\$13,331,362	\$51.85	\$52,902	61.71%
\$9,680,000	\$9,680,000			
1,600,000	1,600,000		1,600,000	
2,820,000	2,820,000		2,820,000	
5,050,085	5,061,229		5,183,407	
187,405	187,405		187,405	
160,603	160,603		160,603	
604,718	604,718		0	
1,478,388	1,478,388		1,971,135	
699,431	10,207		0	
\$22,280,630	\$21,602,550	\$21,602,550		

MULTIFAMILY FINANCIAL ASSISTANCE REQUEST (continued)
Greenland Park, Houston, 4% LIHTC 02443/MFB 2002-012

DIRECT CONSTRUCTION COST ESTIMATE
 Residential Cost Handbook
 Average Quality Multiple Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			\$41.87	\$10,766,939
Adjustments				
Exterior Wall Fini	3.10%		\$1.30	\$333,775
Elderly			0.00	0
Roofing			0.00	0
Subfloor			(1.01)	(259,707)
Floor Cover			1.92	493,701
Porches/Balconies	\$29.24	7,624	0.87	222,926
Plumbing	\$615	1,024	2.45	629,760
Built-In Appliance	\$1,625	252	1.59	409,500
Interior Stairs	\$865	240	0.81	207,600
Floor Insulation			0.00	0
Heating/Cooling			1.47	377,990
Carpports	\$7.83	4,800	0.15	37,584
Comm &/or Aux bldg	\$52.12	4,150	0.84	216,313
Other:			0.00	0
SUBTOTAL			52.25	13,436,381
Current Cost Multiplier	1.02		1.05	268,728
Local Multiplier	0.91		(4.70)	(1,209,274)
TOTAL DIRECT CONSTRUCTION COSTS			\$48.60	\$12,495,834
Plans, specs, survy, b	3.90%		(\$1.90)	(\$487,338)
Interim Construction I	3.38%		(1.64)	(421,734)
Contractor's OH & Prof	11.50%		(5.59)	(1,437,021)
NET DIRECT CONSTRUCTION COSTS			\$39.47	\$10,149,741

PAYMENT COMPUTATION

Series A	\$9,680,000	Amort	360
Int Rate	6.25%		
Series B	\$1,600,000	Amort	360
Int Rate	8.00%		
Series C	\$2,820,000	Amort	360
Int Rate	6.20%	Bonds-Only DCR	1.06
		Aggregate DCR	1.02

ALTERNATIVE FINANCING STRUCTURE APPLICANT'S NOI:

Primary Debt Service	\$1,063,359
Trustee Fee	3,500
TDHCA Fees	24,180
Supportive Services	18,000
NET CASH FLOW	\$21,345

Series A	\$9,680,000	Amort	360
Int Rate	6.25%		
Series B	\$1,600,000	Amort	360
Int Rate	8.00%		
Series C	\$2,820,000	Amort	360
Int Rate	6.20%	Bonds-Only DCR	1.11
		Aggregate DCR	1.07

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE APPLICANT'S NOI

INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	\$2,231,112	\$2,298,045	\$2,366,987	\$2,437,996	\$2,511,136	\$2,911,095	\$3,374,757	\$3,912,268	\$5,257,762
Secondary Income	60,480	62,294	64,163	66,088	68,071	78,913	91,481	106,052	142,525
Other Support Income: 24	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	2,291,592	2,360,340	2,431,150	2,504,084	2,579,207	2,990,008	3,466,239	4,018,320	5,400,287
Vacancy & Collection Los	(171,864)	(177,025)	(182,336)	(187,806)	(193,441)	(224,251)	(259,968)	(301,374)	(405,021)
Employee or Other Non-Re	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	\$2,119,728	\$2,183,314	\$2,248,814	\$2,316,278	\$2,385,766	\$2,765,757	\$3,206,271	\$3,716,946	\$4,995,265
EXPENSES at 4.00%									
General & Administrative	\$57,204	\$59,492	\$61,872	\$64,347	\$66,921	\$81,419	\$99,059	\$120,520	\$178,399
Management	86,039	109,166	112,441	115,814	119,288	138,288	160,314	185,847	249,763
Payroll & Payroll Tax	226,800	235,872	245,307	255,119	265,324	322,807	392,744	477,833	707,310
Repairs & Maintenance	104,028	108,189	112,517	117,017	121,698	148,064	180,143	219,171	324,427
Utilities	34,020	35,381	36,796	38,268	39,799	48,421	58,912	71,675	106,097
Water, Sewer & Trash	69,300	72,072	74,955	77,953	81,071	98,636	120,005	146,005	216,123
Insurance	56,700	58,968	61,327	63,780	66,331	80,702	98,186	119,458	176,828
Property Tax	252,000	262,080	272,563	283,466	294,804	358,675	436,382	530,926	785,900
Reserve for Replacements	50,400	52,416	54,513	56,693	58,961	71,735	87,276	106,185	157,180
Other	0	0	0	0	0	0	0	0	0
TOTAL EXPENSES	\$936,491	\$993,636	\$1,032,290	\$1,072,457	\$1,114,197	\$1,348,746	\$1,633,021	\$1,977,621	\$2,902,027
NET OPERATING INCOME	\$1,183,237	\$1,189,678	\$1,216,524	\$1,243,821	\$1,271,570	\$1,417,011	\$1,573,249	\$1,739,325	\$2,093,239
DEBT SERVICE									
First Lien Financing	\$1,063,359	\$1,063,359	\$1,063,359	\$1,063,359	\$1,063,359	\$1,063,359	\$1,063,359	\$1,063,359	\$1,063,359
Trustee Fee	3,500	3,500	3,500	3,500	3,500	3,500	3,500	3,500	3,500
TDHCA Admin. Fees	24,180	23,985	23,778	23,558	23,324	21,908	19,979	17,352	8,896
Supportive Services	18,000	18,720	19,469	20,248	21,057	25,620	31,170	37,923	56,136
Cash Flow	74,198	80,114	106,418	133,156	160,329	302,624	455,240	617,190	961,348
AGGREGATE DCR	1.07	1.07	1.10	1.12	1.14	1.27	1.41	1.55	1.85

LIHTC Allocation Calculation - Greenland Park, Houston, 4% LIHTC 02443/MFB 2002-012

CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS
(1) Acquisition Cost				
Purchase of land	\$1,736,787	\$1,736,787		
Purchase of buildings				
(2) Rehabilitation/New Construction Cost				
On-site work	\$1,634,536	\$1,634,536	\$1,634,536	\$1,634,536
Off-site improvements	\$337,405	\$337,405		
(3) Construction Hard Costs				
New structures/rehabilitation ha	\$9,726,696	\$10,149,741	\$9,726,696	\$10,149,741
(4) Contractor Fees & General Requirements				
Contractor overhead	\$227,225	\$227,225	\$227,225	\$227,225
Contractor profit	\$690,674	\$690,674	\$681,674	\$690,674
General requirements	\$690,674	\$690,674	\$681,674	\$690,674
(5) Contingencies	\$361,557	\$361,557	\$361,557	\$361,557
(6) Eligible Indirect Fees	\$821,500	\$821,500	\$821,500	\$821,500
(7) Eligible Financing Fees	\$1,084,131	\$1,084,131	\$1,084,131	\$1,084,131
(8) All Ineligible Costs	\$1,935,479	\$1,935,479		
(9) Developer Fees			\$2,282,849	
Developer overhead		\$257,244		\$257,244
Developer fee	\$2,293,049	\$2,035,805		\$2,035,805
(10) Development Reserves	\$62,837	\$317,872		
TOTAL DEVELOPMENT COSTS	\$21,602,550	\$22,280,630	\$17,501,841	\$17,953,087

Deduct from Basis:				
All grant proceeds used to finance costs in eligible basis				
B.M.R. loans used to finance cost in eligible basis				
Non-qualified non-recourse financing				
Non-qualified portion of higher quality units [42(d)(3)]				
Historic Credits (on residential portion only)				
TOTAL ELIGIBLE BASIS			\$17,501,841	\$17,953,087
High Cost Area Adjustment			100%	100%
TOTAL ADJUSTED BASIS			\$17,501,841	\$17,953,087
Applicable Fraction			100%	100%
TOTAL QUALIFIED BASIS			\$17,501,841	\$17,953,087
Applicable Percentage			3.66%	3.66%
TOTAL AMOUNT OF TAX CREDITS			\$640,567	\$657,083
Syndication Proceeds		0.8092	\$5,183,407	\$5,317,050

RENT CAP EXPLANATION

Houston MSA

AFFORDABILITY DEFINITION & COMMENTS

An apartment unit is "**affordable**" if the total housing expense (rent and utilities) that the tenant pays is **equal to or less than 30%** of the tenant's household income (as determined by HUD).

Rent Caps are established at this **30%** "affordability" threshold based on local area median income, adjusted for family size. Therefore, rent caps will vary from property to property depending upon the local area median income where the specific property is located.

If existing rents in the local market area are lower than the rent caps calculated at the 30% threshold for the area, then by definition the market is "affordable". This situation will occur in some larger metropolitan areas with high median incomes. In other words, the rent caps will not provide for lower rents to the tenants because the rents are already affordable. This situation, however, does not ensure that individuals and families will have access to affordable rental units in the area. The set-aside requirements under the Department's bond programs ensure availability of units in these markets to lower income individuals and families.

MAXIMUM INCOME & RENT CALCULATIONS (ADJUSTED FOR HOUSEHOLD SIZE) - 2002

MSA/County: Houston **Area Median Family Income (Annual):** \$59,600

ANNUALLY				MONTHLY							
Maximum Allowable Household Income to Qualify for Set-Aside units under the Program Rules				Maximum Total Housing Expense Allowed based on Household Income (Includes Rent & Utilities)			Utility Allowance by Unit Type (provided by the local PHA)	Maximum Rent that Owner is Allowed to Charge on the Set-Aside Units (Rent Cap)			
# of Persons	At or Below			Unit Type	At or Below			At or Below			
	50%	60%	80%		50%	60%	80%	50%	60%	80%	
1	\$ 20,850	\$ 25,020	33,400	Efficiency	\$ 521	\$ 625	\$ 835	\$ 42	\$ 479	\$ 583	\$ 793
2	23,850	28,620	38,150	1-Bedroom	558	670	894	56	502	614	838
3	26,800	32,160	42,900	2-Bedroom	670	804	1,072	70	600	734	1,002
4	29,800	35,760	47,700	3-Bedroom	775	930	1,240	85	690	845	1,155
5	32,200	38,640	51,500	4-Bedroom	863	1,036	1,382	87	776	949	1,295
6	34,550	41,460	55,300	5-Bedroom	953	1,144	1,525	119	866	1,057	1,438
7	36,950	44,340	59,100								
8	39,350	47,220	62,950								
FIGURE 1				FIGURE 2			FIGURE 3	FIGURE 4			

Figure 1 outlines the maximum annual household incomes in the area, adjusted by the number of people in the family, to qualify for a unit under the set-aside grouping indicated above each column.

For example, a family of three earning \$30,000 per year would fall in the 60% set-aside group. A family of three earning \$25,000 would fall in the 50% set-aside group.

Figure 2 shows the maximum total housing expense that a family can pay under the affordable definition (i.e. under 30% of their household income).

For example, a family of three in the 60% income bracket earning \$32,160 could not pay more than \$804 for rent and utilities under the affordable definition.

- 1) \$32,160 divided by 12 = **\$2,680** monthly income; then,
- 2) **\$2,680** monthly income times 30% = **\$804** maximum total housing expense.

Figure 4 displays the resulting maximum rent that can be charged for each unit type, under the three set-aside brackets. This becomes the rent cap for the unit.

The rent cap is calculated by subtracting the utility allowance in **Figure 3** from the maximum total housing expense for each unit type found in **Figure 2**.

Figure 3 shows the utility allowance by unit size, as determined by the local public housing authority. The example assumes all electric units.

GREENLAND APARTMENTS

RESULTS & ANALYSIS:

Tenants in the 60% AMFI bracket will **save \$115 to \$136** per month (leaving 3.7% to 5.2% more of their monthly income for food, child care and other living expenses).

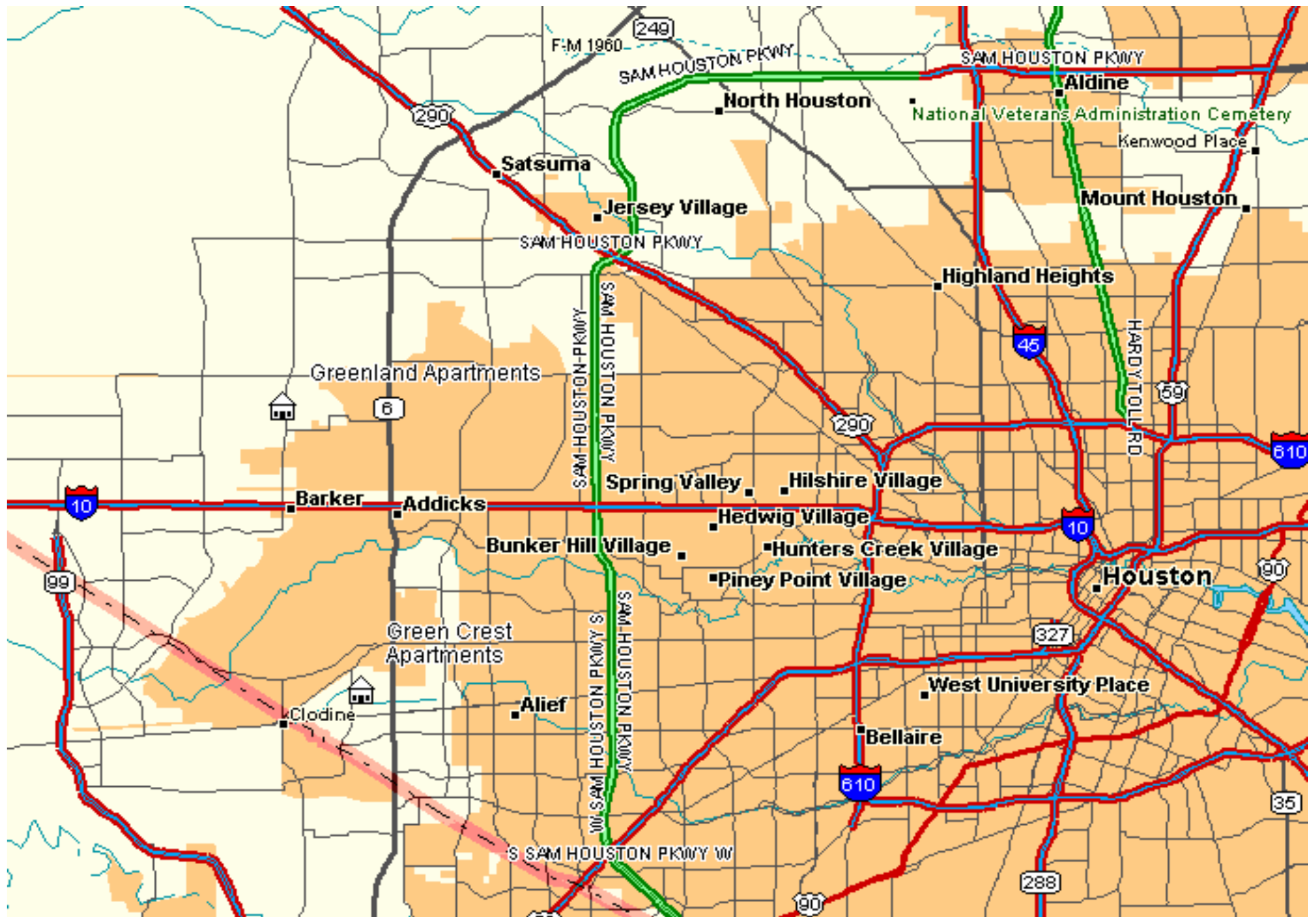
This is a monthly savings off the market rents of **12.0% to 16.9%**.

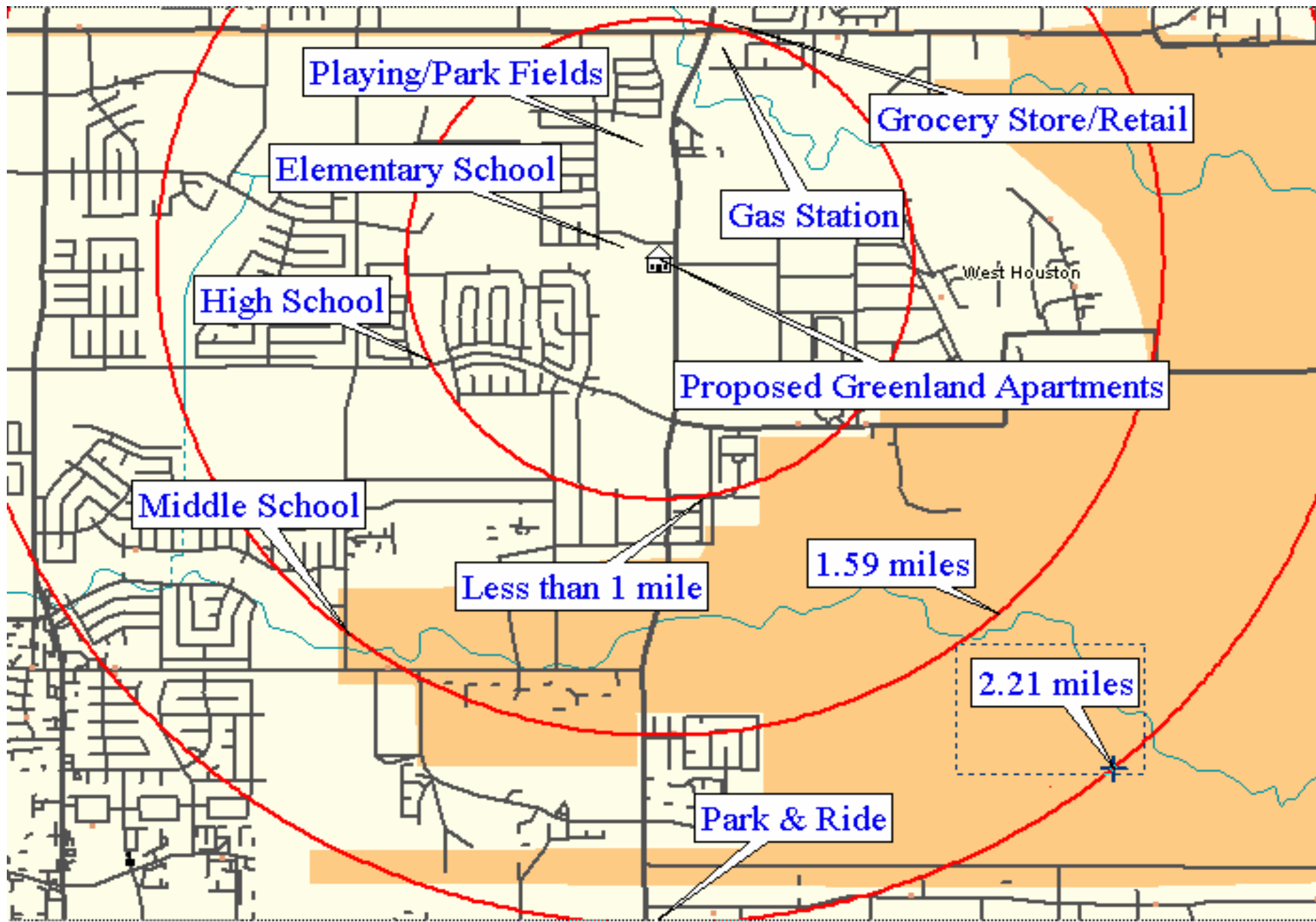
PROJECT INFORMATION				
Unit Mix				
Unit Description	1-Bedroom	2-Bedroom	3-Bedroom	
Square Footage	770	1,048	1,143	
Rents if Offered at Market Rates	\$739	\$870	\$960	
Rent per Square Foot**	\$0.96	\$0.83	\$0.84	

SAVINGS ANALYSIS FOR 60% AMFI GROUPING				
Rent Cap for 50% AMFI Set-Aside	\$614	\$734	\$845	
Monthly Savings for Tenant	\$125	\$136	\$115	
Rent per square foot	\$0.80	\$0.70	\$0.74	
Maximum Monthly Income - 60% AMFI	\$2,385	\$2,680	\$3,100	
Monthly Savings as % of Monthly Income	5.2%	5.1%	3.7%	
% DISCOUNT OFF MONTHLY RENT	16.9%	15.6%	12.0%	

Market information provided by: REVAC, Inc., 16840 Barker Springs, Suite 306, Houston, Texas 77084.
Reported October 16, 2002.

** Rent per Square Foot - calculated by using weighted average of comparable units in market analysis.





Developer Evaluation

Compliance Status Summary

Project ID #: 02443

LIHTC 9% LIHTC 4%

Project Name: Greenland Apartments

HOME HTF

Project City:

BOND SECO

Housing Compliance Review

Project(s) in material non-compliance

No previous participation

Status of Findings (individual compliance status reports and National Previous Participation and Background Certification(s) available)

Projects Monitored by the Department

reviewed 5 # not yet monitored or pending review 3

of projects grouped by score 0-9: 5 10-19: 0 20-29: 0

Members of the development team have been disbarred by HUD

National Previous Participation Certification Received Yes

Non-Compliance Reported No

Completed by Jo En Taylor **Completed on** 10/28/2002

Single Audit

Status of Findings (any outstanding single audit issues are listed below)

single audit not applicable no outstanding issues outstanding issues

Comments:

Completed by Lucy Trevino **Completed on** 10/28/2002

Program Monitoring

Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by Ralph Hendrickson **Completed on** 10/28/2002

Community Affairs Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by EEF **Completed on** _____

Housing Finance Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by _____ **Completed on** _____

Housing Programs Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by S. Roth **Completed on** 10/28/2002

Multifamily Finance Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by Robbye Meyer **Completed on** 10/28/2002

Executive Director: _____ **Date Signed:** _____

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GREENLAND APARTMENTS

PUBLIC HEARING

Betty and Jean Schmalz Elementary School
18605 Greenland Way
Houston, Texas

Thursday,
October 3, 2002
6:30 p.m.

BEFORE :

ROBBYE G. MEYER
ROBERT ONION

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P R O C E E D I N G S

1
2 MS. MEYER: My name is Robbye Meyer. I'm with
3 the Texas Department of Housing and Community Affairs. I
4 would like to proceed. My name is Robbye Meyer. I would
5 like to proceed with the public hearing. Let the record
6 show that it is now 7:04, Thursday, October 3, 2002. And
7 we are at the Betty and Jean Schmaltz Elementary School in
8 Houston, Texas.

9 I'm here to conduct a public hearing on behalf
10 of the Texas Department of Housing and Community Affairs
11 with respect to an issue of tax-exempt multi-family
12 revenue bonds for residential rental community.

13 This hearing is required by the Internal
14 Revenue Code. The sole purpose of this hearing is to
15 collect comments that will be provided to the highest
16 elected official with jurisdiction over this issue, which
17 for this issue, is the Attorney General of the Texas -- of
18 Texas.

19 No decisions regarding the project will be made
20 at this hearing. There are no Department board members
21 present. The Department's board will meet to consider
22 this transaction on November 14, 2002 upon recommendation
23 from the Finance Committee.

24 In addition to providing your comments at this
25 hearing, the public is also invited to provide public

1 comment directly to the Finance Committee or the board at
2 any of their meetings.

3 The Department staff will also accept written
4 comments from the public via facsimile at area code 512-
5 475-3085 up until five o'clock on November 1, 2002.

6 VOICE: Can you repeat the number?

7 MS. MEYER: 512-475-3085.

8 The bonds will be issued as tax-exempt multi-
9 family revenue bonds in the aggregate principal amount not
10 to exceed 12,500,000 and taxable bonds, if necessary, in
11 an amount to be determined and issued in one or more
12 series by the Texas Department of Housing and Community
13 Affairs.

14 The proceeds of the bonds will be loaned to the
15 Greenland Apartments Limited Partnership or a related
16 person or affiliate entity thereof to finance a portion of
17 the cost of acquiring, constructing and equipping a multi-
18 family rental housing community described as follows.

19 A 252-unit multi-family residential rental
20 development to be constructed on approximately 14.5 acres
21 of land located at the southwest corner of Greenland Way
22 and Barker-Cypress Road in Houston, Harris County, Texas.

23 The proposed multi-family rental housing
24 community will be initially owned and operated by the
25 borrower or a related person or affiliate thereof.

1 I would like to open the floor now for comment.

2 And Jane [sic] Crow with Senator -- Representative

3 Culbertson's office will be the first speaker.

4 MS. CROW: I am Jan Crow with Congressman

5 Culbertson's office. First of all, I'd like to thank the

6 Department for having this public hearing and for locating

7 it so conveniently to the subdivisions that are going to

8 be affected. Sometimes these meetings are held in not

9 this great a location. So thank you for that

10 consideration.

11 Congressman Culbertson is -- strongly opposes

12 the Greenland Apartments.

13 (Applause.)

14 MS. CROW: He has already sent a letter to this

15 effect, but he asked me to read it into the public record.

16 "This is a completely inappropriate location

17 for such a development. First of all, it is located in

18 the Katy Independent School District, one of the fastest

19 growing districts in the State.

20 "KISD's current growth rate is 7.9 percent.

21 Enrollment will pass 40,000 this year. Based on

22 demographic projections this development would generate

23 197 additional students, placing a severe burden on

24 adjacent schools facilities.

25 "Secondly, an influx of 197 students would

1 create more than 1,182,000 in additional annual costs to
2 KISD. And this figure does not include any cost
3 projections for possible facility expansion needs.

4 "In addition, the Greenland Apartments would
5 not generate any additional tax revenue because due to the
6 Robin Hood redistribution formula, the State of Texas
7 withholds a dollar of state funding for every dollar of
8 new property value to KISD's tax rolls."

9 (Applause.)

10 MS. CROW: "The proposed location is within a
11 subdivision of single-family dwellings in an area that was
12 new and thus, especially hard hit during the mid-80s
13 economic downturn. Residents have only recently seen
14 their property values recover. A multi-family housing
15 unit will adversely affect the value of these single
16 family homes.

17 "Four, mobility problems are daunting. There
18 is no readily available public transportation. The area's
19 main artery, I-10, carries three to four times the traffic
20 for which it was designated.

21 "And although I-10 is to be reconstructed and
22 four desperately needed east-west arteries are
23 incorporated in the design, the reconstruction will not be
24 completed for six or seven years at the earliest and
25 perhaps never, if a recently filed court case designed to

1 stop the reconstruction is successful.

2 "Five, without mobility there are limited job
3 opportunities. The area has few employers. And six,
4 again, there is no readily available public
5 transportation, no grocery stores, dry cleaners or even a
6 convenience store within easy walking distance.

7 "In summary, this area is facing a number of
8 significant challenges at this time. Chief among them is
9 an exploding school enrollment, a limited tax base and
10 near gridlock in transportation.

11 "Approval of the Greenland Apartment proposal
12 will significantly increase the intensity of these
13 challenges. This proposal is completely inappropriate for
14 this location."

15 Thank you.

16 (Applause.)

17 MS. MEYER: Next speaker we have is Pat
18 Wiznuski [phonetic] from Senator Lindsay's office.

19 (Applause.)

20 MS. WIZNUSKI: I'm Pat Wiznuski, Senator
21 Lindsay's office. And I would like to say that we have --

22 VOICE: Microphone.

23 MS. WIZNUSKI: All right. There we go. I'm
24 Pat Wiznuski, representing Senator Lindsay's office. I
25 want to thank all of you that called. We really

1 appreciate you calling and telling us your feelings.

2 All right. We would like to say that we are
3 opposing this particular project due to our --

4 (Applause.)

5 MS. WIZNUSKI: We have sent a letter to Edwina
6 Carrington, which I know will be entered in the board
7 packet.

8 Thank you for turning out tonight.

9 (Applause.)

10 MS. MEYER: Our next speaker is Representative
11 Callegari.

12 (Applause.)

13 MR. CALLEGARI: Thank you very much.

14 Can you hear me in the back? All right.

15 Good evening, ladies and gentlemen. My name is
16 Bill Callegari. I'm the state representative for this
17 area, District 130, which covers west Harris County and
18 particularly this area in which we are sitting today.

19 I am here tonight to voice my opposition to the
20 Greenland Apartment project.

21 (Applause.)

22 MR. CALLEGARI: My office has received an
23 unprecedented amount of phone calls and emails regarding
24 this project. My constituents are emphatically opposed to
25 this Greenland Apartment project.

1 There are many reasons that I oppose this
2 project. The first relates to the added burden on the
3 Katy Independent School District. In calculating student-
4 teacher ratios a development of this site was not
5 projected for near future projects and furthermore, will
6 create an increased financial burden to the school
7 district.

8 Katy ISD will approach 40,000 -- or pass 40,000
9 students this year with approximately 8 percent growth
10 rate. The potential impact on this project on Katy ISD is
11 significant. The schools that the students from this
12 property would feed into are approaching operating
13 capacity. And at the elementary level classroom space is
14 of a particular concern due to state-mandated class caps.

15 A large number of new students from a high-
16 density residential apartment complex will place an
17 immediate and significant burden on existing school
18 facilities. Less than -- or approximately 32 percent of
19 KISD expenditures are covered through state funded
20 formulas. The influx of 197 students, which is a
21 demographic estimation of the number of students that
22 would be added will create a need for an additional almost
23 \$1.2 million in funds from the school district, funds
24 which have not been -- will not be provided by the State.

25 It also -- it does not include any funds for

1 expansion of facilities that will be needed to satisfy the
2 needs of these students.

3 The other factors that affect -- that have been
4 brought out by the residents I think are significant.
5 One -- and one very important one -- is increased traffic
6 in front of the elementary school.

7 The fact is that the kids will be in greater
8 danger because of the traffic coming in and out and people
9 trying to come out of the apartment units. And there will
10 be an additional burden on those --

11 (Applause.)

12 MR. CALLEGARI: This creates a safety problem
13 for the school children. In addition, the residents of
14 the proposed apartment unit would have significant
15 problems in getting out in the morning and just getting to
16 work. So it creates problems on both sides.

17 My other concerns are certainly the impact that
18 it will have on the value of houses, as was mentioned
19 earlier. There was a depression in the house values in
20 the 80s. Their property values are just now increasing.

21 It's general knowledge that apartment complexes
22 of any time -- of any type creates problems with housing
23 values. And, you know, these people have been stressed
24 enough in that regard.

25 There's no shopping close by. And in

1 particular, no public transportation. There's not a Metro
2 system available to these residents. So there's really no
3 way for them to get to either shopping or job locations.
4 And that creates a significant problem.

5 In addition, there are no convenient medical
6 facilities. And the area job market is going to be tight.
7 There aren't a lot of jobs close by. And we're going
8 to -- there are going to be problems in just finding jobs
9 for them -- for those personnel involved -- the residents
10 involved.

11 In summary, I've got to say again, I want to
12 voice my opposition to this project. I have no choice but
13 to support my constituents and suggest that this project
14 be located elsewhere.

15 One other significant factor, though, is
16 although this project is not tax-exempt because it's a
17 public -- it's a private -- for private project, there is
18 always the potential that it can be converted to a CHDO
19 project, which is tax-exempt, which would put an
20 additional burden on the school system. This is a fact
21 that very few people have brought out and it's one that I
22 am concerned about.

23 Again, I want to voice my opposition and
24 support the residents of this community and oppose the
25 location of this project at this point. There may be some

1 argument for locating it in an area close to the other
2 apartment units in other parts of this community. But not
3 in this location. Thank you.

4 (Applause.)

5 MS. MEYER: Do I have any other elected
6 officials or representatives of elected officials that
7 would like to speak?

8 (No response.)

9 MS. MEYER: Okay. We're going to start with --
10 our public comment will be limited to two minutes in your
11 speaking.

12 The first speaker I have is Beniva Smith.
13 Lives at Shannon Glen Lane.

14 (No response.)

15 MS. MEYER: No?

16 VOICE: She might be in the restroom.

17 MS. MEYER: Okay. Actually, I think that's the
18 little girl that went to school.

19 John Osborn?

20 VOICE: John, go get them.

21 (Applause.)

22 MR. OSBORN: Hello, my name's John Osborn and
23 I'm the vice-president of Barker's Ridge Homeowners
24 Association.

25 (Applause.)

1 MR. OSBORN: And I'm hereby speaking on the
2 association's behalf. Article 6 of the Barker's Ridge
3 Homeowners Association bylaws allows me to speak on behalf
4 of the board and our 763 homeowners at large.

5 I just have a couple quick points I want to
6 bring up. One of the points that we have is that the
7 homeowners are concerned with is crime. And just to give
8 you some facts that I got from the Harris County Sheriff's
9 Department yesterday, the West District consists of 462
10 square miles, runs from 249 Waller County line to the
11 north, Barker Cypress to the east, Fort Bend County line
12 to the south and Waller County to the west.

13 The Sheriff's Department, which project says
14 will be the guardian angel over them -- the Sheriff's
15 Department has 182 patrolmen in this West District.
16 Approximately one-half of those are contracted.

17 There are nine beats within the West District.
18 The beat that this project will be in is the West 40
19 beat. It's boundaries are from Clay Road to Barker-
20 Cypress to Fort Bend County to Mason Road. The number of
21 officers, according to the Sheriff's Department, that
22 cover this beat at any one time is two.

23 This community, without paid security, will put
24 an additional strain on the Sheriff's Department, thereby
25 increasing this and other neighborhoods' chance for crime

1 to occur.

2 Second point, strain on the school board. I
3 think that's already been addressed. But basically, we
4 have four years until another school is even projected to
5 be built. And we just can't handle another 197 kids.

6 The lack of nearby interstructure and public
7 transportation has again been addressed. But again,
8 reiterating, there are no clothing stores, businesses,
9 medical facilities, grocery stores within walking distance
10 to find employment. The closest Park-And-Ride is at least
11 five miles away.

12 The fifth point -- or the fourth point,
13 property values. As you well know, and has been
14 addressed, we have spent the last 20 years trying to get
15 our property values up. We cannot afford to have this
16 project.

17 And the last point, if this continues the
18 homeowners association -- the six homeowners associations
19 will pull together and with over 3,000 homes and with our
20 resources will file a lawsuit against the State of Texas
21 and the Department of Housing and Community Affairs.

22 Thank you.

23 (Applause.)

24 MS. MEYER: Jill Thomas?

25 (No response.)

1 MS. MEYER: Rachel --

2 MS. LeMALLEUR: LeMalleur.

3 MS. MEYER: -- LeMalleur.

4 MS. LeMALLEUR: Good evening. For the record,
5 my name is Rachel LeMalleur. And I'm a taxpaying
6 homeowner and active voter in this community.

7 I would like the following statements to enter
8 into record as my opposition to the proposed Greenland
9 Apartments project. My objection to this project stems
10 from the use of state-issued revenue bonds as funding when
11 it will negatively impact this community's schools and the
12 children it serves. My passion is for children and what
13 is in their best interests.

14 This project is estimated to place 190-plus
15 extra students in a school that is already over capacity.
16 Not only will this eliminate what little playground we
17 have left because it will overrun with temporary
18 buildings, but the tax dollars needed to support the
19 education of these children will not be generated.

20 While I have seen statements from Trammel Crow
21 Residential stating they will be paying taxes, it has also
22 come to my attention that these taxes are at a
23 substantially lower rate because of the benefits of using
24 TDHCA funding.

25 Katy ISD is having enough problems trying to

1 fund the education of children that are already here. The
2 quality and diversity in our schools are what make them so
3 great. How appropriate is it to place more children in an
4 overloaded school and not provide the funds to support
5 them.

6 The programs that would benefit the new
7 students, as well as existing students, will disappear.
8 Those of us who are already over taxed because of the
9 ever-present Robin Hood mentality will now be required to
10 pay more taxes when Katy ISD has to pass yet another bond
11 to cover the education burden caused by this developer. I
12 do not see how this project is good for the children it
13 will bring or the community as a whole.

14 And if the impact on our children's education
15 is not enough, how about the possible flooding of the
16 surrounding neighborhoods caused by all the concrete in
17 this new development? Will there be a retention pond?
18 And if so, what about the safety of the children living
19 near it or on the school grounds? What about the
20 deficiency in MUD taxes or monies that go to our fire
21 department?

22 The developer would like us to believe that
23 this is a needed addition to our community. They are a
24 business and are in this for the tax benefits that come
25 with using revenue bond funding, not to help our community

1 or its proposed residents.

2 Bottom line. As a taxpayer, I am opposed to
3 Trammel Crow Residential being awarded any revenue bond
4 money for this development. It is an unnecessary burden
5 on our school and community.

6 (Applause.)

7 MS. MEYER: Dennis Kotlar?

8 (Applause.)

9 MR. KOTLAR: Hi. My name is Dennis Kotlar.

10 Can you all hear me?

11 (A chorus of yeses.)

12 MR. KOTLAR: First of all, I would like to say
13 I vote in every election, especially this next upcoming
14 election.

15 (Applause.)

16 MR. KOTLAR: I'd like to speak to a few points
17 and hopefully, I won't cover too much of what was already
18 covered. But I have to talk about -- ask the question,
19 Why is this being done? Why is this being done as if it's
20 being done in the dark of night? Why is a one-inch ad in
21 the classified used to announce this? Why is it no one
22 was here at the previous hearing about the sale of this
23 property? Could it be that no one knew? What's the
24 intent?

25 Public officials have a responsibility to their

1 constituency. People they appoint have a responsibility
2 to their constituency. It is a moral obligation to do the
3 people's will.

4 (Applause.)

5 MS. MEYER: All right.

6 MR. KOTLAR: No, I'm not through.

7 (Applause.)

8 MR. KOTLAR: You know, if we were near a harbor
9 with ships full of tea, I think those ships would be torn
10 apart at this time. People are frustrated before they
11 don't feel they have a voice. And I really, really
12 question whether we're going to be heard tonight.

13 Is it -- will be heard? Who's deciding this?
14 A committee of five? Who leads that committee? Is that
15 committee member Robert Onion?

16 No?

17 MR. ONION: I'm Robert Onion.

18 MR. KOTLAR: You're Robert Onion. Okay. Thank
19 you.

20 I understand that Brent Stewart works for
21 Trammell Crow, is doing some of the work at least on their
22 behalf to push this through. Did he not hold your
23 position in TDHC?

24 MR. ONION: TDHCA? Texas Department of Housing
25 and Community Affairs? He did.

1 MR. KOTLAR: He did hold your position? Is it
2 not a conflict of interest for him to be pushing this
3 through?

4 (Applause.)

5 MR. ONION: No, sir.

6 MR. KOTLAR: Why -- I want to ask again,
7 what -- who is going to hear this. Who is going to make
8 this decision? If we were voting on it I think we'd know
9 what the outcome would be. We want to be heard.

10 VOICE: Yes.

11 VOICE: We don't want it.

12 VOICE: We don't want it.

13 MR. KOTLAR: Mr. Onion, you gave my wife a
14 statistic that 60 percent of the people that qualify for
15 this own cars. There's no public transportation anywhere
16 near here. I take the Park-And-Ride on occasion when I
17 can. It will take me on occasion up to 40 minutes to get
18 to that Park-And-Ride because the traffic is so backed up.

19 (Applause.)

20 MR. KOTLAR: So I don't want --

21 (Applause.)

22 MR. KOTLAR: -- you know, my tax dollars being
23 used inefficiently. Help these people. Put it somewhere
24 where they want it. I'd like our tax dollars to be more
25 than 60 percent efficient when the car's working.

1 Thank you very much.

2 (Applause.)

3 MS. MEYER: Edward Snyder?

4 (No response.)

5 MS. MEYER: Edward Snyder?

6 (No response.)

7 VOICE: Excuse me. A very good point was just
8 raised. Who will be hearing and deciding on this --

9 MS. MEYER: The Texas Department of Housing and
10 Community Affairs board and also, the Texas Bond Review
11 Board.

12 VOICE: We want --

13 (Voices speaking at once.)

14 VOICE: Ma'am, are any members of that board
15 here?

16 MS. MEYER: No, sir.

17 VOICE: Why aren't they? Why aren't the people
18 that we need to be talking to here?

19 MS. MEYER: The transcript will be given to
20 both boards.

21 VOICE: I think it's more effective if they
22 were here to see this.

23 VOICE: Do we get to talk at this next meeting
24 that you all are going to have?

25 MS. MEYER: If you want to be at the -- either

1 board meeting, you're more than welcome to be there.
2 They're public meetings.

3 MS. MEYER: Okay. But we're to get your
4 comments. And the best way to do that is you to address
5 them up here, rather than talking back and forth. She
6 can't get them on record. This will go on record. It
7 will be transcribed and given to our board. So if we
8 could conduct this in a fashion we'll call the next
9 speaker -- two minutes -- we'll limit it to two minutes.
10 Appreciate your time.

11 VOICE: Come on, Bill.

12 (Applause.)

13 MR. CALLEGARI: I would like to formally
14 request that my office, as well as Senator Lindsay's
15 office and Congressman Culbertson's office and at least
16 some -- the key people who have spoken here be -- have an
17 opportunity to be notified of the board meeting and the
18 Bond Review Board meeting date.

19 (Applause.)

20 MR. ONION: The names of our board members, as
21 well as the dates and the hearings are listed on our
22 website. That's www.tdhca.state.tx.us. And that will be
23 posted on that website. We do have the members of the
24 board also listed on there. And if you have any
25 additional questions, you can --

1 VOICE: Is the information for the Texas State
2 Bond Review Board, as well --

3 MR. ONION: Sure. It's www.brb.state.tx.us.
4 Thank you.

5 (Voices speaking at once.)

6 VOICE: You have to go to the arrow and page
7 over.

8 MR. ONION: If you would call me, I'll be happy
9 to just guide you through it. Thank you.

10 MS. MEYER: Our next speaker is Marie or Robert
11 Nugent or both.

12 (No response.)

13 VOICE: What's your number?

14 MS. MEYER: 512-475-2213 is my number. And
15 I'll do the same thing. Robert's number, 512-475 --

16 MR. ONION: 3872.

17 MS. MEYER: -- 3872.

18 VOICE: What's the website again?

19 MS. MEYER: www.tdhca.state -- the word
20 state -- .tx.us. And for the Bond Review Board, just
21 replace TDHCA with BRB.

22 The next speaker is Christine Jackson.

23 (Applause.)

24 MS. JACKSON: My name is Christine Jackson and
25 I'm here simply representing my own opposition to this

1 project, but I do want to speak about the Metro transport
2 system.

3 Bear Creek Assistance Ministry [phonetic] has
4 served this area for a very long time and has recognized
5 that most clients' problems stem from lack of transport.
6 On their behalf in 1996 I petitioned Metro for bus
7 service. And I was told that a Highway 6 crosstown from
8 I-10 to Willowbrook and a Bear Creek circulator were being
9 planned possibly to start in January 1998.

10 (Laughter.)

11 MS. JACKSON: I called every six months until
12 July of this year. That is seven years. Nothing has
13 changed. And plans for these services are still ranked,
14 meaning they are on a long list. Given this dismal
15 record, I see little hope for people living in public
16 housing on Barker-Cypress to ever have the transport they
17 need.

18 Thank you.

19 (Applause.)

20 MS. MEYER: Howard Caywood?

21 MR. CAYWOOD: I would just like to second --

22 MS. MEYER: Sir, you just want to second her
23 comments?

24 MR. CAYWOOD: That's right.

25 MS. MEYER: Okay.

1 You get that, Sue?

2 MS. MEYER: Mary Kotlar?

3 MS. KOTLAR: Tracy.

4 MS. MEYER: Tracy?

5 (Applause.)

6 MS. KOTLAR: Hello. My name is Tracy Kotlar
7 and I live at 18519 Iron Link Drive. And I do vote in
8 every election, as well as this bond election that was
9 about to come up. And I am in support of it because the
10 district is in need of money.

11 (Applause.)

12 MS. KOTLAR: One of the things I spoke to Mr.
13 Onion about is who would be living in these subdivisions.
14 I would like to submit these evening for our record he
15 stated that teachers, nurses, et cetera would be residents
16 of this community.

17 (Laughter.)

18 MS. KOTLAR: Did -- Mr. Onion, did you say that
19 to me?

20 MR. ONION: Pardon me?

21 MS. KOTLAR: Did you say that to me?

22 MR. ONION: Yes. Full-time teachers --

23 MS. KOTLAR: Okay. Thank you.

24 He did say yes.

25 I did a -- just a quick internet search this

1 afternoon just on teachers alone for the Katy ISD, Spring
2 Branch, Royal and Cy-Fair School District. I would like
3 to submit those and state that a first-year teacher for
4 Katy, Spring Branch and Cy-Fair -- I'm very nervous,
5 excuse me -- is approximately 35,000. Most first-year
6 teachers do not have any children. That would not qualify
7 for these homes.

8 The only community that I found that possibly
9 could qualify for this low-income housing would be in
10 Royal ISD. That salary is 27,000. Royal ISD is back west
11 of here on the other side of Sealy, well within a 45-
12 minute drive.

13 (Applause.)

14 MS. KOTLAR: I'd like to submit these as public
15 records.

16 (Applause.)

17 MS. MEYER: Alton Goerlitz?

18 (Applause.)

19 MR. GOERLITZ: My name is Alton Goerlitz and
20 I'm a resident of Amesbury Park subdivision, and I vote in
21 every election. I'd like to address the --

22 (Applause.)

23 MR. GOERLITZ: -- the approval of the bonds.
24 This appears to be a gross misuse of a financial resource
25 that was designed to create housing for those people in

1 need. It will not do that. It will create these people
2 in an island where they have no transportation, no job and
3 no infrastructure. It only appears to serve the needs of
4 Trammell Crow and its partners --

5 VOICE: Yes.

6 MR. GOERLITZ: -- and those partners that have
7 a financial interest --

8 (Applause.)

9 MR. GOERLITZ: It is a gross misuse of a
10 resource that was designed to help people, not create
11 hardships. And I strongly encourage this board to not
12 approve these bonds.

13 (Applause.)

14 MS. MEYER: Allen Hebert?

15 (Applause.)

16 MR. HEBERT: I'm Allen Hebert. I'm a homeowner
17 in this area. And I concur with 99 percent of what's been
18 said. But there are two things that I think have not been
19 raised.

20 One is the burden that will be placed on the
21 utility districts to provide water and sewer hookups for
22 these 252 units. Already Addicks Utility District is
23 committed to a development of 560 units near Barker-
24 Cypress Clay Road. And I don't think there's any capacity
25 left to accept 252 more units, which means then it will

1 have to dig another well.

2 And I don't think Trammel Crow is going to pay
3 for that well. Perhaps if we can get some kind of
4 commitment from them for that our objections wouldn't be
5 quite as bad. Also, they say that this could be a tax-
6 exempt project. It is not going to be a tax-exempt
7 project for people who live in this area --

8 (Applause.)

9 MR. HEBERT: -- because we're going to be
10 paying for these utility --

11 (Applause.)

12 MR. HEBERT: Bottom line -- the bottom line, as
13 I see it, is that Trammell Crow is not in this thing for
14 altruistic reasons.

15 VOICE: Oh, no.

16 MR. HEBERT: They don't care whether poor
17 people get housing or not. They're in it for the money
18 and they're in it to get our tax money. And I think that
19 our tax money should not go to them.

20 (Applause.)

21 MS. MEYER: Robert Carpenter?

22 (Applause.)

23 MR. CARPENTER: Thank you very much. Most of
24 the points I was going to make have been made. I did want
25 to thank our elected officials who are here tonight.

1 Thank you for your support in responding to your
2 community.

3 (Applause.)

4 MR. CARPENTER: Also wanted to say I'm sure we
5 could put together a committee that would help Trammell
6 Crow search Royal ISD for a new location.

7 (Laughter.)

8 (Applause.)

9 MR. CARPENTER: Couple of relevant points, I
10 think, do need to be added here. One of the articles or a
11 quote in the paper talked about questioning why anybody
12 wouldn't want \$21 million to be invested in this
13 neighborhood because it's marketable and a desirable place
14 to live and it's going to help all of out here with our
15 properties.

16 Quite frankly, that's a ludicrous statement. I
17 think you can poll any -- and Trammell Crow knows this
18 very well -- you can poll any real estate agent in this
19 state, real estate companies, low-income public housing
20 in the middle of single dwelling homes has a depressing
21 effect on your value -- home values. And that will not
22 change, I think, just because they're located out here
23 this time. We will -- our home values will go down. And
24 that's fact.

25 Also, the dollars invested in the local

1 infrastructure will be nil. And if Trammell Crow had
2 their offices out here perhaps we'd see some benefits from
3 that. But as it turns out, the office will be going
4 somewhere else and it certainly won't be local.

5 The mobility issue is something. And we've
6 talked about this and I think it's been alluded to. And
7 perhaps this isn't politically correct, but neither am I
8 most of the time.

9 Maybe I'm being unfair. Maybe I'm not. But if
10 people living in this housing area are short of money
11 because they're low-income people, short of
12 transportation, short of entertainment, sometimes short of
13 food because the grocery stores are too far away, that can
14 easily equate to crime and/or vandalism.

15 (Applause.)

16 MR. CARPENTER: With crime in nearby
17 neighborhoods it's become a genuine and justifiable
18 concern.

19 Last point. We don't need a housing -- another
20 multi-unit housing out here. The people will come. We
21 are KISD. People will come to KISD. That's not a
22 problem. We don't need the housing addition, a multi -- a
23 apartment complex to get them there.

24 And I think -- and the bottom line is that's
25 why Trammell Crow probably selected this site, is because

1 KISD has such a reputation for quality schools and they
2 felt like it would be an easy sell to residents. So it
3 was to us. But we are single-family homeowners and we
4 want you to respect our rights and our property values.

5 Thank you.

6 (Applause.)

7 MS. MEYER: Chris Bearce?

8 (Applause.)

9 MR. BEARCE: I just want to ditto basically
10 everything that's been said so far tonight in opposition
11 of this proposal. My name is Chris Bearce. And I do live
12 at 3318. And I'm a homeowner in the Barker's Ridge
13 subdivision. When it came to my attention both my wife
14 and I were shocked. And we are very much opposed to this.

15 And I basically only have one statement I think
16 that may or may not have been covered. And that is that
17 hardworking Americans who have and are continuing to work
18 to keep this great nation strong deserve to live in the
19 cleaner, relatively crime-free areas in which they have
20 settled.

21 People who are given handouts, as opposed to
22 working for them have less respect for those handouts and
23 will not take care of them as well as those of us who have
24 worked for what we have.

25 (Applause.)

1 MR. BEARCE: That's all I have.

2 (Applause.)

3 MS. MEYER: Scott Reynolds?

4 MR. REYNOLDS: I'm going to pass. I think all
5 my concerns have been addressed already.

6 MS. MEYER: Okay. Thank you, Mr. Reynolds.

7 MR. REYNOLDS: All the concerns, though.

8 MS. MEYER: Okay.

9 MR. REYNOLDS: I feel strongly against this
10 project.

11 VOICE: indiscernible].

12 MS. MEYER: Have you signed in, ma'am?

13 VOICE: I've signed in, but I wasn't going to
14 speak, but --

15 MS. MEYER: Okay. If you let me get through
16 the yeses, then I'll let you speak.

17 VOICE: indiscernible].

18 MS. MEYER: Okay.

19 Kevin? I think it's Opal. You scratched
20 through your name, so I'm not --

21 (Applause.)

22 MR. O'DELL: I'm nervous. I've never spoken in
23 front of this many people before. I agree with everything
24 that's said so far. But I wanted to hit something other
25 than property -- the negative impact on property values

1 and a possible increase in crime.

2 The location of the project's inappropriate due
3 to the public transportation. Katy and other
4 surrounding -- Houston surrounding areas have always been
5 under-served by Metro. The fact is that within the Loop
6 or at least within the Beltway is the only area one can be
7 within reasonable distances to public transport.

8 The -- this -- the local -- the area local to
9 the project lacks employment that would have opportunities
10 for advancement. The local area has convenience stores
11 and one Randall's grocery store. These are limited skill
12 jobs that do not allow room for advancement.

13 Areas near to the industrial park and
14 manufacturing facilities would provide more opportunities
15 to find employment at a low skill requirement level but
16 would allow advancement over time as skills and experience
17 are attained.

18 I personally started as an unskilled assembly
19 person at an oil field equipment company in 1985, making
20 barely more than minimum wage. By hard work and night
21 school I'm now a technical specialist at ABB and will
22 complete my engineering degree this December.

23 Lack of adult education in this area that could
24 be accessed by people without dependable transportation is
25 also a problem. If you're low income, you want to go up.

1 Negative effects on adding students to an
2 already explosive population growth burdens on this school
3 district, this -- the tax basis, because it's low income
4 versus the number of students added.

5 Texas -- the Texas government should be
6 respectful of this. This is called an unfunded mandate.
7 Texas doesn't like it when the federal government does it
8 to them. They shouldn't do it to the local school board.

9 (Applause.)

10 MR. O'DELL: I still have one more quick item.
11 As a suggestion, housing projects such as these are often
12 negative, not only for the surrounding communities, but to
13 the residents of the project themselves.

14 The money spent, 12 million divided by 252
15 units is \$47,619 or possibly more, since it also allows
16 for more bonds that are not tax-exempt to be sold. This
17 money might be better spent to fund programs for down
18 payments on mortgages to help make the people -- help
19 people make the transition from project resident to a
20 homeowner who is surrounded by people who take pride in
21 their neighborhood and influence --

22 (Applause.)

23 MR. O'DELL: -- this homeowner to be
24 independent of the government and break the cycle of
25 public support dependency.

1 I would urge this proposal not to go forward as
2 it is a bad way to integrate disadvantaged people into the
3 Katy area. I would encourage the expansion of independent
4 home ownership as the best solution for people of low
5 income to move into this area.

6 A resident in a project-like development would
7 only really interact with the people in a like situation.

8 Moving these people into homes and neighborhoods through
9 some sort of assistance would give opportunity to
10 associate and learn from a diverse background of people.
11 Most of all, the existing residents would get to know
12 their new neighbors.

13 And human nature being what it is, would be
14 accepting and supportive of these individuals because they
15 would have been integrated into our community as opposed
16 to being segregated into public housing.

17 Thank you.

18 (Applause.)

19 MS. MEYER: Billie Watson?

20 (Applause.)

21 MS. WATSON: I bit my gum and it's sore, thanks
22 to Trammell Crow. When you bring 252 families with
23 growing children into an area you overlook their needs
24 when you don't provide a gym, a swimming pool, a baseball
25 field, a basketball court and a way to use their free

1 time.

2 Those are my thoughts and I think they should
3 be considered in any future building, whether it's low
4 income or whatever. You have to consider your children.

5 Thank you.

6 (Applause.)

7 MS. MEYER: Dr. Leonard Merrell.

8 (Applause.)

9 DR. MERRELL: Good day to each one of you and
10 thank you for being here today. I do want to re-
11 emphasize -- I am Leonard Merrell and I'm superintendent
12 of schools in Katy ISD.

13 (Applause.)

14 DR. MERRELL: I think from earlier testimony
15 you've gotten a pretty good feel of the level of knowledge
16 that the community has for the project that you're talking
17 about at least considering putting in in this area.

18 What I want to do tonight in my short time that
19 I have is just merely to re-emphasize a couple of the
20 things, if I may, from the perspective of a school
21 administrator here in the district.

22 Katy ISD is indeed the fastest growing school
23 district in all of Harris County. To bring additional
24 individuals into this community in an already fast-growing
25 district is something that is very much of concern to all

1 of us. When they talk about taxes and they talk about the
2 \$21 million that this facility is valued at, it's already
3 been mentioned by our representatives and senators here
4 that there's no tax dollars that actually come into the
5 district.

6 I want to -- if I may clarify that just a
7 little bit, if I may. When we talk to our demographer
8 about the growth in a development like this the numbers
9 that they talk about already, the 197 additional students,
10 that is the number that our demographer estimates -- and
11 she's been pretty close, about 99 percent accurate over
12 the past several years -- that will come to a development
13 like this.

14 The day-to-day operations, maintenance and
15 operations tax that this \$21 million would be applied to
16 in effect because of Robin Wood will mean zero dollars to
17 this district. They will be added to our debt service
18 side, though. And I would -- I need to mention that to be
19 perfectly fair about this. Is that will bring in 70 -- a
20 little over \$71,000 to our coffers.

21 However, the numbers that have been mentioned
22 already of over \$1.1 million to educate those children is
23 an accurate number. I think the tax-exempt bonds are
24 interesting because the State of Texas has something to do
25 with where they steer these type of developments.

1 I would offer to you the fact that if they
2 steer a development like this toward any school district
3 that they ought to take into consideration the taxing
4 ability of that district, the ability to handle that
5 population that will come as a result of that.

6 In this district with the growth that we have
7 that is going to be very difficult for -- again, it's
8 difficult for us to do. This building that you're in
9 today has a thousand -- well, it has 999 students in
10 there. When you go around this area and go to the
11 elementaries, junior highs or high schools that these
12 children that will come to this district that will go to,
13 you'll find that in each one of those schools we have
14 portable buildings, which would indicate to you that those
15 buildings are at capacity. And so I want you obviously,
16 but I want the board that hears this to be aware of that.

17 And the bottom line, I guess, I would just
18 simply state from a school district perspective that if
19 you're going to steer students to a school district, that
20 somebody needs to steer some money with them also to help
21 pay for them. And I mean whether that's here or some
22 other place.

23 (Applause.)

24 DR. MERRELL: The State of Texas, because of
25 Robin Hood, pays less than a third or right at a third of

1 the cost of educating children in our district. Across
2 this state of Texas certainly that number goes up or down,
3 but mostly goes up when you look at districts even just in
4 this area here.

5 So in closing I would just simply again thank
6 you for being here, for hearing our testimony, for the
7 board that's going to make that consideration. I do
8 appreciate that. And I would just say as superintendent
9 of this school district, I am opposed to this development
10 coming to this district.

11 (Applause.)

12 MS. MEYER: Craig, I hope I don't mess up your
13 last name too bad. Is that Bourgeois?

14 (Applause.)

15 MR. BOURGEOIS: My name's Craig Bourgeois. I'm
16 a resident of Rolling Green. And of course, I'm opposed
17 to this project.

18 I would like to thank the representatives from
19 Senator Lindsay's office and Representative Culbertson's
20 office for being here tonight and also for their support
21 when we fought the landfill which I haven't had a chance
22 to thank you all publicly for that.

23 I'm told by people that your board denies less
24 than 2 percent of the applications that come before it.
25 If that's the case that makes you a rubber stamp for the

1 developers. And I'd like to tell you to put that rubber
2 stamp away because it's not going to work that way this
3 time.

4 (Applause.)

5 MR. BOURGEOIS: I'd also like to mention -- and
6 I'm not picking Representative Callegari.

7 Because I know this is your first term and
8 you're not part of the ancient history of this thing. But
9 most communities in this country -- we wouldn't be here
10 tonight. Because we would have zoning --

11 VOICE: Right.

12 VOICE: Yes.

13 MR. BOURGEOIS: -- and it would be zoned
14 single-family housing.

15 (Applause.)

16 MR. BOURGEOIS: The reason we're here tonight
17 is because we're supposed to be a private property right
18 state. Well, I'll tell you who that helps. It helps the
19 developers. It's all about them.

20 And the Legislature, the county government and
21 the city government has abdicated their legal right that's
22 in the law to regulate the use of private land. They have
23 that right. They just don't do it because the developers
24 don't them do it.

25 VOICE: Right.

1 MR. BOURGEOIS: And one other quick thing. My
2 three sons are grown. They don't live here in town. I
3 don't have any kids at Katy ISD. But in the early voting
4 I voted for the bond issue. And I'll go -- I would urge
5 everybody to vote for it.

6 (Applause.)

7 MS. MEYER: Debbie Dayton [phonetic].

8 MS. DAYTON: I --

9 MS. MEYER: Okay.

10 (Applause.)

11 MS. MEYER: Tess Zimmerman?

12 (Applause.)

13 MS. ZIMMERMAN: My name is Tess Zimmerman. And
14 I live in the Mayde Creek subdivision. I would like to
15 formally give the TDHCA 1,828 signed petitions from our
16 community.

17 (Applause.)

18 MS. ZIMMERMAN: These petitions are expressions
19 of the major concerns felt by my local community. Again,
20 we would like to state our opposition to this project for
21 the following reasons.

22 Lack of public transportation, lack of access
23 to medical facilities, lack of job opportunities within
24 walking distance, as well as lack of adequate access to
25 other resources necessary for daily living. In the light

1 of absence of these amenities we question whether this
2 particular project is being given preferential treatment
3 because of the involvement of Brent Stewart with Trammell
4 Crow, who is the former director of Multi-Family Finance
5 at the TDHCA.

6 It is my understanding that these bonds are
7 awarded to developers in return for providing needed
8 affordable housing to individuals with low income. There
9 is no such need in this area. There is affordable housing
10 for rent or purchase in many of our neighborhoods and
11 nearby existing apartments.

12 Bringing 252 families to this location offers
13 them no opportunity and will instantly overcrowd all of
14 the schools servicing this area. This development would
15 be an unnecessary drain on the resources of this
16 community. And we hope that TDHCA will give fair
17 consideration to these facts and the concerns of our
18 community before giving support or financing to this
19 project.

20 And I would just like to say thank you to
21 everybody who came out here tonight. They didn't believe
22 we were coming. And we will be going to Austin.

23 (Applause.)

24 MS. MEYER: Lisa Babin?

25 VOICE: Go girl.

1 (Applause.)

2 MS. BABIN: Thanks everybody for coming to the
3 PTA meeting tonight. Oh, I'm sorry. Welcome -- Okay.

4 You all, we have affordable housing, apartment
5 housing down the street. This point has not been brought
6 up. There is one town home complex, three apartment
7 complexes. They are never at full capacity. I personally
8 know that a one-bedroom apartment rents for 550.

9 Why would anybody be wanting to rent at 618 for
10 a one bedroom when this housing is already around here?
11 And none of these apartment complexes are ever at full
12 capacity. This just doesn't make any sense to me.

13 We invited these gentlemen from Trammell Crow
14 to our homeowners meeting. They could not answer any of
15 our concerns on how this would benefit our community, nor
16 did they know that they were in the Addicks Utility
17 District. So I don't really even think they know that --
18 you know, what's going on out here.

19 And I strongly opposed this. And I really
20 would like to ask you gentlemen, please, take this
21 someplace else. You don't live in our community. You
22 don't know what goes on out here, nor do you care about
23 our community. I do.

24 (Applause.)

25 MS. MEYER: Robert Howard? Do you want to --

1 would you like to speak? Okay.

2 MR. HOWARD: indiscernible].

3 MS. MEYER: Oh, you'd pass?

4 Brenda Leslie?

5 MS. LESLIE: I --

6 MS. MEYER: Okay. Victor Treat?

7 (Applause.)

8 MR. TREAT: Okay. My name is Victor Treat.

9 I'm a homeowner in the Barker's Ridge subdivision. I have
10 voted in every election I've been eligible for since 1984.

11 And I plan on voting in the bond election coming up and
12 the general election.

13 I am opposed to this building. I would first
14 like to also thank Mr. Onion for showing up and the
15 representatives that are here. You've got a tough job and
16 I appreciate your putting up with this. But I have to say
17 this is not a good thing.

18 I'm going to approach this from a standpoint of
19 taxation. I actually support the bonds for low-income
20 housing. Not in this location. It doesn't make any
21 sense.

22 I am being taxed on that particular money. I'm
23 also then being taxed as a homeowner for Katy ISD. I
24 could go on with all the taxes, stressing out in my MUD
25 district, stressing out of other resources. This location

1 doesn't make any sense.

2 What I also wonder is -- and I don't get it.
3 As a business person, I don't get it. What does Trammell
4 Crow think they're going to do here? These people who are
5 supposed to be the target audience are not going to want
6 to live here because the only resources available to them
7 is the school. Nothing else.

8 It's over a mile to the nearest grocery store.
9 Two-and-a-half miles to the nearest library. And we can
10 go even farther with Metro and all the other facilities
11 that these people would need.

12 I am not against the people who live in these
13 homes. I have lived in these kind of apartments before.
14 I am fortunate to be a homeowner. I'm opposed to this
15 development.

16 (Applause.)

17 MS. MEYER: Carol Lucci?

18 (Applause.)

19 MS. LUCCI: Hello. My name is Carol Lucci. I
20 just wanted to bring something to light. I came in late
21 so I'm not sure if this has been addressed or not. I live
22 in Barker's Ridge now. I am a homeowner. At this point
23 right now the homeowners in Barker's Ridge and the people
24 that are north of us are dealing presently and have been
25 dealing with a landfill.

1 I just feel that one more bump in our road to
2 be able to live the way that we choose to live and which
3 is why we moved out here in the first place is going to be
4 put on us as a burden. It will also cause problems with
5 the homeowners associations just trying to keep up with
6 the daily crime and activities.

7 We will in addition have to absorb more
8 expenses before we are going to have to pay for additional
9 constable patrols. I don't think anyone in here wants to
10 pay any more than what we're already paying. But this is
11 what we would be forced to do.

12 In addition, there is a -- there are, I'm sure,
13 teachers with the school district that are here. I don't
14 know whether or not Silver Mill is properly represented.
15 But there is a teacher in the district that lives in
16 Silver Mill. She was not able to put her yes, but she
17 wanted to speak today. She would like to have that
18 opportunity.

19 But I just wanted to bring this up and put it
20 on record that the homeowners in Barker's Ridge and the
21 surrounding subdivisions already do have to put with
22 enough as it is with the landfill. Why add insult to
23 injury?

24 Thank you.

25 (Applause.)

1 MS. MEYER: Danny Gex?

2 MR. GEX: My name's Danny Gex. I'm a homeowner
3 in Barker's Ridge. And I just want to concur with all --
4 I want to go on record as concurring with all the
5 preceding comments before me.

6 Also, would like to say that -- I'm drawing a
7 blank right this second. I appreciate everybody coming
8 out and formulating their words. I also want to go on
9 record as objecting obviously, to this development.

10 I just would like to say, as I'm leaving right
11 now to help my wife tuck in our three baby girls, that,
12 Mr. Onion, I believe our passion for our children and our
13 people and our community supersedes that of your passion
14 for this project. So please go somewhere else.

15 (Applause.)

16 MS. MEYER: Diane Sandy?

17 VOICE: Sanders.

18 MS. MEYER: Sanders.

19 (Applause.)

20 VOICE: Go, Diane.

21 (Applause.)

22 MS. SANDERS: It's Diane Sanders, for the
23 record. And before I came tonight I had a nice little
24 speech typed out very well, which once I found out
25 Trammell Crow's in bed with the state, I'm extremely

1 upset. And I'm not sure I can read my own writing, but
2 I'll try.

3 I have two major concerns regarding this
4 project. I'm a local realtor and I know what it will do
5 for our property values. But that aside, i'm concerned
6 about the overcrowding of the schools and the crime.

7 Our family moved here about eight years ago
8 from Alief. We were tired of hearing of the excess crime
9 on the evening news, not mention seeing it every day. We
10 fell in love this area but we had no money and couldn't
11 afford it. I borrowed \$14,000 from my boss to move here.

12 We're now in our third home in this subdivision
13 and I will not stand by idly and see the state take my
14 investment or anyone else's.

15 (Applause.)

16 MS. SANDERS: Our son began kindergarten at
17 KISD and just finished fifth grade. He went to three
18 elementary schools during that time. And keep in mind we
19 have not changed subdivisions.

20 Our subdivision has been rezoned three times in
21 that short period. This new school that you're standing
22 in is only two years old. And I want it for the record we
23 already have temporary buildings. I understand also many
24 of the classrooms are already at or exceeding the state-
25 mandated teacher-student ration.

1 As a group, you can see that we're here to stop
2 the madness. We're going to protect the values in our
3 community and the right that we vote for. And we do all
4 vote. We need the Texas Department of Housing's help, not
5 their hindrance in this matter. No matter what Trammell
6 Crow says, I know bringing in more apartments will quickly
7 and dramatically escalate the growth problem of our
8 schools.

9 There is no taxes coming in. And we've also
10 found out the developer will be the one making the money
11 on this deal. These folks aren't going to live around
12 here. The apartments right down the street have a lot of
13 units and the prices are very, very competitive.

14 I've given you a packet that I found while
15 researching this bond issue. I'd like to read a short
16 excerpt. It's called, Understanding Your Rents On The
17 Bond Revenue Housing.

18 "The Tax-Exempt Bond Program is an unusual low-
19 income housing program in that there are no maximum rents.
20 The owners are allowed to charge however much they want."

21 And then it goes on to say why the rents should
22 be low. Nonetheless, most of these apartments have pretty
23 high rents, about as high as the rent in other apartments.

24 If the rents are ultimately going to be the
25 same or similar to the surrounding apartments, why mess

1 with the bond program? Why subject our schools to more
2 overcrowding with little hope of collecting their fair
3 share of taxes? Why subject this area to a stigma of a
4 low-income apartment in our backyard? The only winner I
5 can find in this scenario is Trammell Crow.

6 The second issue I'm concerned about is crime.

7 I've also given you some data from HPD's website.

8 Although we are not in the city, the city's closest beat
9 encompasses part of Mayde Creek High School's enrollment.

10 I've compared this data with that of two other
11 beats. The area around Dairy Ashford and Briar Forest
12 south of the bayou, which is similar to ours in
13 demographics. This area has a lot of apartments. The
14 other area I've compared with ours is the Memorial area
15 north of the bayou. This area has few apartments.

16 The data I have used in all three areas is the
17 reported crimes for the most recent period available,
18 August 2002.

19 Of all reported crimes in that time period for
20 the beat of HPD that encompasses part of our area,
21 approximately 40 percent of all the crimes occurred on
22 apartment property. And you do have that data there to
23 present to the board, please.

24 In the beat around Dairy Ashford, which for the
25 record is called 20G40, well over 50 percent of the crimes

1 that occurred in that month occurred on apartment
2 property.

3 However, in the Memorial area with fewer
4 apartments only 8 percent of the crime occurred on
5 apartments. However, as well, there was only about half
6 as much total crime for the same size beat. There were
7 very few apartments and half the crime.

8 Do you see why I'm so concerned and why
9 everyone behind me is so concerned? Many of us have lived
10 in apartments or we have family in apartments. It's not
11 the people who there that concern us, but the problems
12 that seem to be inherent with multi-family dwellings.

13 Our plates are already full. In this part of
14 town we're keeping our crime rates and our student-teacher
15 ratios down. I reached the state. We need the
16 Department's help, not hindrance on this issue.

17 You own website states your mission as, "To
18 better help Texans achieve and improve quality of life
19 through development of better communities." I fail to see
20 the better if this plan succeeds. Trammell Crow is the
21 only true winner here. Thank you for your time.

22 (Applause.)

23 MS. MEYER: I can't read the next name so I'm
24 going to give the address. 3326 Magnolia Trail.

25 (No response.)

1 MS. MEYER: Anybody live at that address?

2 VOICE: Spell the name.

3 MS. MEYER: I can't even come close.

4 All right. I'm going to try Beniva Smith one
5 more time. We started with her earlier in the -- she
6 gone?

7 Is there anybody -- I know there was someone
8 over here that wanted to speak. If you'll come up.

9 VOICE: Go Jennifer.

10 (Applause.)

11 MS. SCARANO: My name is Jennifer Scarano. I
12 am a member of Amesbury Park. My -- I want to say I'm
13 opposed to it and I want to know why they are planning on
14 building a low-income housing apartment complex here when
15 there's a HUD project that's supposed to go in down off of
16 I-10 and Barker Road -- Park Road and then another
17 apartment complex that's going to be built right across
18 the street there where -- I think it's Park -- I can't
19 remember the name of the subdivision.

20 VOICE: Park Harbor.

21 MS. SCARANO: Park Harbor. But there's a 580-
22 unit apartment complex that's supposed to be built there.

23 So I'm trying to figure out what -- why you're wanting to
24 put something right here in an elementary school area.

25 VOICE: indiscernible].

1 MS. SCARANO: Well, I know that, but --

2 VOICE: Greed.

3 MS. SCARANO: But I am opposed to it and I'm
4 just wondering why if there's a HUD project going in and
5 another apartment complex going in, why this is slated for
6 a multi-planned family housing unit.

7 THE REPORTER: Could you spell your last name?

8 MS. SCARANO: Sure. Scarano, S-C-A-R-A-N-O.

9 (Applause.)

10 MS. MEYER: Is there anyone else who would like
11 to speak? Okay. If you'll come forward.

12 (Applause.)

13 MS. MEYER: If you'll state your name, please.

14 MS. HODGIO: My name's Sylvia Hodgio
15 [phonetic]. And I live about 450 feet that way. And I'm
16 very concerned about the safety of our kids. Are you
17 going to guaranty my child's safety walking to school?

18 These people that live in apartments -- I have
19 absolutely nothing against them. I've lived in apartments
20 myself. But I have a problem with these people not having
21 a vested interest in where they live. They can walk away
22 much easier than we can living in our house. I've got a
23 problem with that. I've got a few words to say, Hell, no,
24 Trammell Crow.

25 (Applause.)

1 MR. MEEK: Can you hear me?

2 (A chorus of yeses.)

3 MR. MEEK: My name's David Meek. I live in the
4 Estates of Cullen Park. And there's a couple of points
5 I'd like to add to the avalanche that has been pointed at
6 you tonight, Mr. Onion.

7 As far as the burden on the community, one
8 point on crime. One of the three specific grants in the
9 national program on the war on drugs is the new approach
10 anti-drug program. And this specifically provides grants
11 to assist in the investigation and/or prosecution of drug-
12 related criminal activity in and around the vicinity of
13 low-income housing.

14 Our federal government has a specific grant for
15 fighting drugs in low-income housing. By itself, that
16 should say something right there. We don't want this in
17 our neighborhood.

18 (Applause.)

19 MR. MEEK: One other burden that has not been
20 mentioned is part of the Katy School District's. And
21 there have been multiple studies done on the effects and
22 psychological profiles of children in low-income housing
23 projects.

24 Fitzpatrick and Baltzer in 1993 found that
25 conservatively 27 percent of youth aged 7 to 18 living in

1 low-income housing met the criteria for post-traumatic
2 stress syndrome, which included symptoms of re-
3 experiencing the trauma, avoidance and others. Katy ISD
4 doesn't need this in their school district. They have
5 enough problems at this time.

6 Now, I've got one question for you. When you
7 go before the board hearing after hearing this unanimous
8 disapproval of this project, what are you going to
9 recommend?

10 MR. ONION: (No response.)

11 (Applause.)

12 MS. MEYER: I wouldn't answer it, Robert. I
13 wouldn't answer it if I was you. Go ahead.

14 MR. ONION: My job responsibility is to review
15 all the third-party reports and the information that is
16 provided within the application --

17 (Voices speaking at once.)

18 MR. ONION: -- and make a recommendation based
19 upon the real estate. Our board makes the decision with
20 regard --

21 (Voices speaking at once.)

22 MS. MEYER: Go ahead.

23 MR. ONION: My responsibility is to make a
24 recommendation based upon the real estate and third-party
25 reports that are in the application. Our board makes the

1 decision --

2 MS. MEYER: Robert, they can't hear.

3 MR. ONION: Our board makes the decision and
4 weighs all the facts. And so that's -- my job is just to
5 make a recommendation on the real estate. My board makes
6 the decision with regard to --

7 VOICE: What is your recommendation?

8 MR. ONION: What? My recommendation? I can
9 tell you I have the application here and I have not gone
10 through the market study, I have not gone through the --

11 VOICE: You've got the study right here.

12 MR. ONION: Okay. Again --

13 (Voice speaking at once.)

14 MS. MEYER: Okay.

15 VOICE: So do you want to buy my house and live
16 next to it?

17 (Applause.)

18 MR. ONION: Thank you, ma'am.

19 (Voices speaking at once.)

20 MR. ONION: If you would like to make a
21 comment, please come up to the microphone.

22 VOICE: I just did make a comment --

23 MS. MEYER: Okay. Thank you.

24 VOICE: May I ask you a personal question?
25 indiscernible] your predecessor now works for Trammell

1 Crow. Have you been promised a job with Trammell Crow?

2 MR. ONION: No, ma'am. Thank you.

3 VOICE: indiscernible]

4 MR. ONION: I have not formulated one.

5 MS. MEYER: Is there anybody else who would
6 like --

7 VOICE: indiscernible]

8 MS. MEYER: Are you making a public comment or
9 are you doing questions?

10 VOICE: Comment.

11 MS. MEYER: Okay. Could you state your name
12 clearly?

13 MS. FULEY: I'm Julie Chance Fuley [phonetic]
14 and I've voted every time since I was 18. And I'm going
15 on 50. So I never miss a chance to vote.

16 I have lived in this corridor for 21 years. I
17 lived for 12 years in the Woodfern subdivision and I built
18 a house in Parker's Ridge nine years ago. I remember when
19 entire subdivisions went into foreclosure and it was a
20 wasteland out here. And I tell you, once a neighborhood
21 turns over like that it never comes back. And you can
22 still drive through some of these neighborhoods and see
23 that.

24 And secondly, I'm also a realtor. And I can
25 tell you there are fabulous programs out there now.

1 Interest rates are at a 35-year low. And there are
2 programs sponsored by the government to give people the
3 incentive to become a homeowner.

4 And thirdly, on a personal note, I'm a New
5 Orleans native. That is a city that has the greatest
6 amount of family-funded low-income housing in the south
7 and we have the highest murder rate in the nation. The
8 highest. And that's what comes from that kind of housing.

9 I mean, you can go to D.C. and Miami and have a
10 better chance than you do going to the French Quarter. I
11 don't want to live like that. That's why I don't live in
12 New Orleans. Hell, the food is better. That's why I live
13 here.

14 (Applause.)

15 MR. ONION: Speak your name for the record.

16 MS. BRUCELO: Very impromptu. My name's
17 Mallory Brucelo. I live in the area. I just want to let
18 everyone know that two years ago we were fighting a
19 project just like this based on the same criteria. It was
20 called Queenston [phonetic] Villas, in the middle of a
21 field not near anything.

22 And I just want you all to know that you
23 persist because it's a good old boy system and it has to
24 do with money. And there's a lot of money that has to do
25 with this project. Okay? So if you fight them, I know --

1 I can't guaranty it -- but you'll win.

2 (Applause.)

3 MS. MEYER: Is there anyone else? Anyone want
4 to speak?

5 Please state your name clearly.

6 MS. ALLOGGIO: Ginger Alloggio,
7 A-L-L-O-G-G-I-O. I also came in late. I was at work. I
8 came from apartments. And I worked hard and I still work
9 hard to give my family the type of lifestyle -- my
10 children the type of lifestyle that they deserve. I did
11 not move out here for you to put this apartment complex
12 right there.

13 (Applause.)

14 MS. ALLOGGIO: As a community, this is our
15 community. And we shall have a say. If it was in your
16 community you would want a say. And I hope that you take
17 everything that everybody's brought from this room,
18 because it's our community.

19 The -- all of our community has come together.
20 I know people from Amesbury Park, Cullen Park Estates,
21 Woodfern. I live in Rolling Green. Happens to be right
22 across the street. We are a very close, tight knit
23 community. And it's ours. It's not yours. And you
24 should listen to the passion that we come with because I
25 brought my children into this world in an apartment. And

1 I worked too damned hard. And I continue to work hard.

2 Thank you.

3 (Applause.)

4 MS. CAROSELLA: My name is Gywn Carosella,
5 C-A-R-O-S-E-L-L-A. First of all, I'm a 20-year resident
6 of Silver Mill [phonetic]. And we've had our own share of
7 problems over there.

8 When I moved into that neighborhood there were
9 judges, there were lawyers, there were doctors. And
10 slowly over the years it's kind of eroded its based. And
11 our prices are just now beginning to come up after almost
12 20 years.

13 Now, I am also a KISD employee and I'm very
14 proud to be that. I work in the school system. And we
15 are stretched, like Dr. Merrell said, at the limits. I
16 work there every day. I see it. We're trying to provide
17 a good education for the kids that we have now.

18 Our growth is expected in ten years to be
19 70,000. If you bring more kids in they're not going to
20 get the educations that they deserve. Because we're at
21 our max now.

22 And I'm very much against this move. Thank you.

23 (Applause.)

24 MS. MEYER: Okay. Come forward.

25 MS. BIELICKI: My name's Marilyn Bielicki. I

1 live in Barker's Ridge. That's spelled B-I-E-L-I-C-K-I.
2 The thing I wanted to bring out I don't think anyone has
3 touched upon. And that is there was a lot of housing in
4 the City of Houston before they built Million Dollar Loss
5 [phonetic] and kicked everyone out of their housing. And
6 to me, that's the real sin here.

7 Because that's where people had public
8 transportation, they had medical facilities, they had ways
9 to get to work. And that was the appropriate place, I
10 felt, for people to be able to live.

11 I am not against anyone having a decent place
12 to live, but for all the other reasons that everyone else
13 has already stated. This is not the right place. And I
14 really resent the very, very wealthy people taking away
15 all the housing from those who didn't have any and now
16 they want to move everything out to the suburbs. And I
17 don't think that's right.

18 (Applause.)

19 MR. SABILLA: My name is Sal Sabilla
20 [phonetic]. I live in Cullen Park. I'm against this
21 project.

22 There are a lot of proud people in this room.
23 And the reason they're proud is because they worked their
24 tails off to build a house and build a community that is
25 better for their families.

1 Now, I wasn't born here in Texas, but as the
2 old saying says, I got here as fast as I could. Okay?
3 And I came and I moved out here because of the people.

4 You are waking a sleeping giant by trying to
5 put this facility here.

6 (Applause.)

7 MR. SABILLA: Not only is it one family, one
8 house, but it's several subdivisions of highly intelligent
9 and people who know what to do and they have the data.
10 You're in deep trouble if you try to put this here because
11 we have the data that shows this is wrong.

12 My family -- my kids come to this school. You
13 know what? I'm scared to death of them trying to come
14 into school with -- even with the big buses with this
15 subdivision there. Absolutely not. No way, Trammell
16 Crow. No way. Because we're going to be there.

17 (Applause.)

18 MS. MEYER: Sir, would you state your name for
19 the record?

20 MR. LeSAGE: Sure. Tom LeSage, L-E capital
21 S-A-G-E. And I'm here to represent myself and my wife,
22 Deborah from Amesbury Park subdivision.

23 Like the last gentleman, I got here as fast as
24 I could, too. I've owned rental property in my day. And
25 after owning four of those homes, just recently selling

1 them, there's one thing that was consistent with each and
2 every one. The people who paid money to live in that
3 house did not take care of it the way that I would, owning
4 it. That's the bottom line.

5 Now, you know, I don't have kids and my wife
6 doesn't have children here in the Katy ISD. But we're
7 paying the school taxes anyway. And the way I see it,
8 that supporting something else, I guess, is just throwing
9 more money away. Frankly, I'd rather throw my money into
10 a lawsuit if that's what it takes because I'm going to
11 lose it anyway. And I figure I'll just [indiscernible].
12 Thank you very much.

13 (Applause.)

14 MS. VERGARA: My name is Claudia Vergara. I'm
15 from Columbia and I want you all to excuse my English.
16 I'm just learning.

17 But I want you to know that when I got married
18 with -- I mean, my husband is from Texas. He told me, We
19 can live in Columbia or we can move to the states. The
20 only reason that moved me here was because of the teacher
21 for my three daughters. If we bring more people here my
22 kids are not going to get the education they need.

23 And that's like in countries like Columbia.
24 We're like that. Because the people don't count. I mean,
25 nobody hears what we say. Here we have that chance. And

1 we have to use it. Thank you.

2 (Applause.)

3 MS. SIMEON: My name is Arlene indiscernible]
4 Simeon [phonetic]. I live four blocks from here. And I
5 did not come to speak tonight, but some of the reactions
6 and the words and the comments that I have heard have
7 forced me to do so.

8 I wanted facts before I signed anyone's
9 petition. I am not a follower. I have my own mind. And
10 I make my own decisions. When I was asked to sign the
11 petition I said, I can't until I know more facts.

12 Two facts came out that I can stand behind.
13 One, there is affordable housing close by. And two, there
14 is no public transportation. These two are the only two
15 facts why I can sign this petition.

16 Thank you.

17 (Applause.)

18 MR. KOTLAR: My name is Dennis Kotlar. I want
19 to apologize first of all for coming up here a second
20 time. But I did not get to complete my thoughts the first
21 time around.

22 I grew up in a family with six children. I was
23 fortunate enough to have a set of parents who took me to
24 church every week, tried to teach me right from wrong, but
25 one of the real problems I had growing up was I was from a

1 very poor family. We qualified for food stamps. We
2 qualified for government help. My parents gave me the
3 gift of refusing all that help because they wanted us to
4 know that it's important to earn what you have and have
5 respect for yourself.

6 (Applause.)

7 MR. KOTLAR: Now, I want to ask a question.
8 And this may seem asinine. But is the TDHCA interested in
9 our comments? Truly interested? Just nod your head if
10 you can speak for the TDHCA. I take that as yes.

11 VOICE: No, they're not.

12 MS. MEYER: I'm missing one -- I need that
13 paper. Were any of you at the similar meeting at the
14 Cutten Forest Apartments held September 18?

15 MS. MEYER: Yes.

16 MR. KOTLAR: You were?

17 MS. MEYER: (No response.)

18 MR. KOTLAR: I have to ask a question about how
19 that meeting was held, if you truly are interested in our
20 comments.

21 I didn't attend that meeting. My wife, Tracy
22 Kotlar, did. And she'll verify for what I'm about to tell
23 you. Diane Sanders went along with her and I think --
24 she's here tonight. And I think she will say this is a
25 true statement. But please correct me if I'm wrong.

1 That meeting was held with the developer
2 starting off the discussion. People started asking
3 questions and got up and spoke similarly to the way I am
4 now. This went on for probably an hour-and-a-half.

5 Oh, by the way, they didn't hear about it until
6 2:30 that afternoon. Why?

7 VOICE: The sign was posted in a way you
8 couldn't see it. As you'd drive by you couldn't see it.

9 MR. KOTLAR: You couldn't see it. Okay.

10 Well, if the TDHCA is really interested and
11 Brent Stewart works for Trammell Crow, who was in your
12 office, Mr. Onion, why wouldn't he be interested in trying
13 to develop that, to foster that.

14 But to -- further, to explain what happened
15 that night, the developer got up and spoke. Everyone made
16 their comments, got up and was passionate about it. The
17 people who knew about it got up there and spoke. After
18 most of them left the meeting was called to order.

19 Were their comments heard?

20 (Applause.)

21 (Voices speaking at once.)

22 (No response.)

23 MS. MEYER: Would you state your name for the
24 record?

25 MR. DIVER: Yes. My name's Patrick Diver,

1 D-I-V-E-R. I requested, through the Open Records law,
2 from the TDHCA copies of all the full reports, Tenant
3 Services provided, the Housing Sponsor Report, the Owners
4 Compliance Report and the Owners Financial Certification
5 Report that they're -- these companies are required to
6 file every year.

7 For the record I received 145 pages in the mail
8 just on October 1 from Bobbie Grier from TDHCA. Everybody
9 was very cooperative. I talked to Robert Onion, Brent
10 Stewart, others. They gave me the reports. I went
11 through them.

12 I think for the record you need to review those
13 yourself -- your board. Because as far as I can tell,
14 Trammell Crow is not in compliance with your program. And
15 the reason I say that is because there's a series of
16 questions that they're supposed to answer, questions 5
17 through 22. And I have copies of those. I think Tess has
18 them right now. Those questions were not answered.

19 But the report was turned in signed by Chris
20 Burton [phonetic] -- I think is his name -- from Trammell
21 Crow. And on that report it states, If the form is not
22 completed in its entirety then they will be considered in
23 non-compliance. So I think you need to look at these
24 facts.

25 The other point I'd like to make is on the

1 tenant services provided. Because talking to Mr. Stewart,
2 he was adamant about the services that would be provided
3 through their program called Apartment Life Cares. And
4 that was a big thing to him.

5 But the point I'd like to make is this is a
6 Christian-based ministry program. I don't necessarily
7 have a problem with that. What I do have a problem with
8 is they're -- have contracts that say they will provide 80
9 hours of care and services to the tenants in the project.

10 Well, in the Tenant Services Reports provided,
11 as far as I can tell, all they held was a Christmas party.
12 Mr. Stewart was pretty adamant about talking about child
13 support, after-school care and things like that for the
14 tenants. But I didn't see anything about that in these
15 reports.

16 And also in the report it stated that, The 2002
17 programs will be provided and attached to the reports.
18 They weren't there. And the company says that they will
19 provide 80 hours of service to the tenants every month.
20 There was one calendar on -- for one of the projects for
21 one month in February and listed the activities that were
22 to be provided. It added up to 17 hours. That's a long
23 ways from 80.

24 I guess my point here is your board or whatever
25 you're called really needs to take a hard look at Trammell

1 Crow and what they've done in the past in the projects
2 they've done in Harris County. I think that's very
3 important whether or not you approve this project. Thank
4 you.

5 (Applause.)

6 MR. MEEK: David Meek, M-E-E-K. This is my
7 second time around. I just have a question. Are there
8 any agents, employees, consultants or anybody contributing
9 to the Trammell Crow organization here in the building?

10 MS. MEYER: (No response.)

11 MR. ONION: (No response.)

12 VOICE: There's three of them.

13 MR. MEEK: Is anybody monitoring this for
14 Trammell Crow or the board?

15 (No response.)

16 VOICE: They're over here.

17 MR. MEEK: Okay.

18 Could you identify yourself please?

19 MR. STEWART: I'm Brent Stewart.

20 MR. MEEK: Okay.

21 (Voices speaking at once.)

22 MS. MEYER: This isn't a question and answer.
23 You either make your public comment or you need to sit
24 down.

25 MR. MEEK: My comment is this. If they're

1 really interested in this then they should identify
2 themselves and come up here and be open and above board.

3 (Applause.)

4 MR. MEEK: They are the representatives of this
5 company.

6 (Applause.)

7 MR. MEEK: They have not -- this is a really
8 poor way to get off on a relationship.

9 (Applause.)

10 MR. MEEK: I really, really suggest that you
11 think hard about what you're doing. And having worked in
12 corporations for 20-plus years now, I'd really be
13 interested in seeing your business case on this. I'd like
14 to see how that fits in with the altruistic nature of the
15 presentation.

16 Thank you.

17 (Applause.)

18 MS. MEYER: State your name for the record.

19 MS. STEMPFER: I'm sorry?

20 MS. MEYER: State your name for the record.

21 MS. STEMPFER: Oh. My name is Natalie
22 Stempfer. And I am a resident of Bear Creek. And
23 actually, I have some questions to address to Mr. Onion
24 and also to our Trammell Crow representatives. And I'd
25 like to have their answers read into the record if I

1 could, please.

2 According to the brochures that you laid up
3 there, there are criminal background checks on the
4 residents -- on the potential residents. And it says that
5 they're available to us by the Resident Credit Reporting
6 Services. Are those like, credit reporting services like
7 a credit bureau?

8 (No response.)

9 MS. STEMPFER: You run a credit bureau on to
10 determine criminal history? So it's just a regular credit
11 bureau. So if they had a car repossessed or something
12 like that?

13 (No response.)

14 MS. STEMPFER: Or is it a criminal history
15 check?

16 (Pause.)

17 MS. PARKER: Hi. I'm Debra Parker. It's not
18 through the credit bureau. It's -- we use a certified
19 credit search company.

20 MS. STEMPFER: Okay. But a credit -- but are
21 they checking the criminal history? Like an employer has
22 the right to check my --

23 MS. PARKER: Yes.

24 MS. STEMPFER: -- criminal background.

25 MS. PARKER: Yes.

1 MS. STEMPFER: So they're actually checking
2 public records for --

3 MS. PARKER: Felonies and things like that.

4 MS. STEMPFER: Yes.

5 MS. PARKER: That's part of the screening.

6 MS. STEMPFER: Okay. And then is --

7 MS. PARKER: I'm sorry?

8 VOICE: indiscernible].

9 MS. PARKER: It's three-way certified credit
10 and background companies such as one like you would use
11 for your employer.

12 MS. STEMPFER: I see. Okay. And how many on-
13 site managers are you planning for this complex?

14 MS. PARKER: Normally, historically, on a 250-
15 unit you have one property manager. That is the property
16 manager position. We also staff them with an assistant
17 manager and two to three leasing associates, a maintenance
18 supervisor and assistant maintenance supervisor and a
19 porter grounds person.

20 MS. STEMPFER: And what I would like to know is
21 the TDHCA or Trammell Crow, either, going to accept
22 financial responsibility if any of your residents
23 burglarize our homes or assault our children or sell drugs
24 to our students.

25 MS. PARKER: I can't answer that.

1 MS. STEMPFER: You can't answer that?

2 MS. PARKER: No.

3 MS. STEMPFER: Can you answer that, Mr. Onion?

4 MR. ONION: I can't answer that.

5 MS. STEMPFER: You don't know? I mean --

6 VOICE: They don't care.

7 VOICE: They don't care.

8 MS. STEMPFER: And can you tell us, please, I
9 know that you said that --

10 MR. ONION: The State can't accept
11 responsibility for that.

12 MS. STEMPFER: I'm sorry?

13 MR. ONION: The State can't accept
14 responsibility for that.

15 MS. STEMPFER: The State cannot accept
16 responsibility for that? Okay. And can you tell me,
17 please -- you said that --

18 (Voices speaking at once.)

19 MS. STEMPFER: You said that your board
20 members' names are listed on your website. Can you tell
21 me how your board members -- if they're appointed
22 officials, are they elected officials? Who -- how do they
23 become board members?

24 MR. ONION: Robert Onion, for the record.
25 They are appointed by the Governor.

1 MS. STEMPFER: They're appointed by the
2 Governor?

3 MR. ONION: Yes.

4 MS. STEMPFER: So Governor Perry is the one
5 that needs to hear these comments basically?

6 MR. ONION: (No response.)

7 MS. STEMPFER: Okay. Thank you.

8 (Applause.)

9 MR. ONION: Would you state your name again for
10 the record? Okay. She didn't catch it.

11 MS. STEMPFER: I'm Natalie Stempfer. My name
12 is spelled S-T-E-M-P-F-E-R. First name Natalie.

13 MS. NGUYEN: Hi. I'm Cindy Nguyen,
14 N-G-U-Y-E-N. I'm just a regular citizen. I don't know
15 anything about laws or statistics. I totally don't know
16 anything about TCH -- or TDHCA until today. So to make it
17 clear before --

18 I feel my time is worthwhile today. I have
19 four children. For me to take the time to come here, sign
20 the petition, I'd like to know exactly since Trammell has
21 Mr. Onion here to review all of our opinions here and our
22 voices here, does TDHCA have similar folks who are
23 representing them?

24 Trammell is going to attend the meeting in
25 Austin. But I'd like to know if there is anybody

1 representing TDHCA who has a voice to recommend what they
2 feel -- what we're saying to those who are in the board of
3 TDHC representing here, hearing our voices.

4 Because I'd like to make sure that our voices
5 are heard. Because I know -- I forgot -- Tracy Koltar's
6 husband -- he said that they just spoke and said a bunch
7 of things in the previous meeting. Seems like their
8 voices are not really heard.

9 And my concern is will there -- will TDHCA
10 review all of our petitions, our voices, hearing all of
11 this prior to the meeting, will they make the decision
12 prior to the meeting or are they going to wait till the
13 meeting, make their decision when they get to review all
14 of this prior to that? And also, I'd like to know who are
15 the members of on the board.

16 MS. MEYER: There will be a staff
17 recommendation made at the board meeting with TDHCA. And
18 that board meeting is -- it is scheduled at this time for
19 November 14.

20 VOICE: What time?

21 VOICE: Where?

22 MS. MEYER: You'll actually have to check the
23 website because sometimes there's a Finance Committee at
24 nine o'clock and then the actual board meeting is at ten.
25 Sometimes it actually starts at nine. It just depends on

1 how much is on the agenda. So --

2 (Voices speaking at once.)

3 MS. MEYER: You can give me a call and I'll be
4 glad to answer that question.

5 VOICE: Where?

6 VOICE: On what number?

7 MS. MEYER: Oh, the meeting is scheduled right
8 now for Austin. And it's normally held at the Capitol
9 Extension. I can't tell you a building until they
10 actually post. Because they do that a week before the
11 board meeting. I don't know that information. All I can
12 tell you is when the meeting is actually scheduled, as to
13 the date.

14 (Voices speaking at once.)

15 VOICE: How are the meetings held? As far as
16 like, the first come, first served in the building --

17 MS. MEYER: No.

18 VOICE: I mean, like what we are talking about?

19 MS. MEYER: The meeting is open forum. And
20 you're welcome to make public comment. It -- I don't
21 schedule the hearings. So it could be in the auditorium,
22 it could be in one of the hearing rooms. It could be --

23 VOICE: Is there a lot of seats?

24 VOICE: Yes. What is the general capacity or
25 head count as to who they're going to let in and that type

1 thing?

2 MS. MEYER: It --

3 VOICE: How many? Is there a --

4 MS. MEYER: Anybody. I mean, we don't let --
5 we don't kick anybody out.

6 VOICE: We can come if we want to come?

7 MS. MEYER: That's correct.

8 VOICE: If we --

9 MS. MEYER: It is --

10 VOICE: If we lose, short of a lawsuit, is
11 there an appeal system?

12 MS. MEYER: Once the board makes a decision,
13 that's it. So you have to make a -- now, I will let you
14 know that the Bond Review Board has two different
15 meetings. I don't know what their meeting dates are off
16 the top of my head. That is on the website. If you call
17 me, I'll be glad to answer that question, also.

18 VOICE: How soon does the building process
19 proceed once it's -- like say, we leave here tonight, how
20 quickly does it start up?

21 MS. MEYER: I don't know what the closing date
22 is.

23 Do you know what closing --

24 MR. ONION: Sixty days.

25 VOICE: Pardon me?

1 MR. ONION: Sixty days after the approval, as
2 far as being able to move forward.

3 MS. MEYER: Is that how long it is?

4 MR. ONION: (No response.)

5 VOICE: I heard from Trammell Crow that they
6 were going to start like, in December, close on a loan in
7 December, and they would start construction January 2003.

8 VOICE: They have to be ready to go by December
9 8. If they are not ready to break ground and start then
10 anything later than that date they lose indiscernible] for
11 the loan.

12 MS. MEYER: If you all want to make comments,
13 you're going to have to come to the microphone. I'm
14 sorry. That's the way it is.

15 MS. NGUYEN: indiscernible] answer my question.

16 MS. MEYER: Hang on just a second. I'm trying
17 to get to all her questions.

18 MS. NGUYEN: My question is that what is the
19 real process? The members of the TDHCA who will be making
20 the decision -- are they going to see all this prior to
21 the meeting?

22 MS. MEYER: That's correct.

23 MS. NGUYEN: And will we be able to contact
24 them? And who are they? Contact them to see what is
25 their feelings once they review what we are saying here.

1 What are their names and who are they?

2 MS. MEYER: Okay. Michael Jones is the
3 Chairman. I can't give you phone numbers because I don't
4 have those. They're all on the website. If you want that
5 information you can call me. I'll be glad to give that
6 information to you.

7 Kent Conine is the vice-chair. Shadrick
8 Bogany --

9 VOICE: Can you spell that, please?

10 MS. MEYER: B-O-G-A-N-Y? Do I have --

11 MR. ONION: Yes.

12 MS. MEYER: That is Shadrick Bogany?

13 You also have a Beth Anderson and Mayor Salinas
14 in Mission, Texas and Vidal --

15 MR. ONION: Gonzales.

16 MS. MEYER: -- Gonzales. Couldn't think of
17 his last name. We have six board members.

18 VOICE: indiscernible].

19 MS. MEYER: Do what now?

20 VOICE: What's the first name?

21 MS. MEYER: V-I-D-A-L.

22 VOICE: And what is Kent's last name?

23 MS. MEYER: Whose?

24 VOICE: Kent.

25 MS. MEYER: Kent Conine? C-O-N-I-N-E.

1 Again, if you --

2 VOICE: It's on the website.

3 MS. MEYER: -- it's on the website. And I'll
4 be glad -- if you call me, I'll be glad to give that
5 information to you.

6 Can you state your name.

7 MS. LESLIE: Hi. My name is Brandy Leslie.
8 And I work for Northland Investment Corporation, which is
9 also a multi-family company. We own apartments
10 nationwide. And I am opposed to this for the record. I
11 have a question for Trammell Crow.

12 If you don't get this tax credit are you still
13 going to build the property?

14 (Laughter.)

15 VOICE: No.

16 MS. LESLIE: Thank you.

17 (Applause.)

18 MR. LeSAGE: Tom LeSage again for the record.
19 Number one, guys, I'm all for profit, you know. I mean,
20 that's why I own rental property. Thank God the profit --
21 you know, I can live in a nice neighborhood like Amesbury
22 Park. So, you know, we're not opposed to that. You know,
23 I think we've all got valid reasons to just say, Seek the
24 profit elsewhere. Okay?

25 And what I want to say to everybody here is

1 this game is not over by any stretch of the imagination.

2 This is --

3 (Applause.)

4 MR. LeSAGE: -- just the beginning here.

5 Okay? And I've seen a lot of people leave here tonight.

6 And frankly, it's disappointing. And I want to thank

7 every single one of you who stayed here long enough to see

8 this thing through.

9 I think -- I'm not impressed with the check-

10 our-website answer. Okay. You guys need to come with a

11 lot more information than that. You need to have it

12 printed out. You need to have enough forms to pass out to

13 everybody here. Okay? We took our time to get here. You

14 guys need to do some homework.

15 (Applause.)

16 MR. LeSAGE: And we're thoroughly unimpressed.

17 Okay? So that's what I think. And the last thing I want

18 to know is this -- when it goes to the Review Board and

19 we've got our last chance for public comment, what type of

20 notice are we going to have because I'll drive one of

21 these buses to Austin if you all, you know, want to come

22 along with me.

23 (Applause.)

24 MR. LeSAGE: I'm serious. And I'm not just

25 sounding off here. But I want to know how much notice

1 we're going to have because we're going to have to take
2 time off work, we're going to have to find people to look
3 after the kids.

4 This is a serious issue. And we plan on
5 following through. So I want to know when it is, as well
6 as where it is in enough time that we can make the
7 preparations we need to get there. Folks, please do not
8 forget that. Thank you.

9 (Applause.)

10 MR. FLEMING: Yes. My name is Fred Fleming
11 with one M. I would just like to ask these people why do
12 you want to bring to our subdivision what you don't want
13 in your own?

14 (Applause.)

15 MR. FLEMING: Why don't you put it in your
16 subdivision? Go ahead; give it a try.

17 MS. LeMALLEUR: For the record, again, my name
18 is Rachel LeMalleur. And I've been asked to say that on
19 the record we will have 800-plus in this room that will be
20 willing to travel to Austin. There was a question on how
21 long the length.

22 This is from an email received that Brent
23 Stewart sent, I believe, to Pat Diver. And it was
24 forwarded to me. It says, "Upon the issuance of the bond
25 reservation the developer has approximately 120 days to

1 close the transaction. This is the current state of the
2 Greenland Park Townhomes.

3 The bond reservation they received was issued
4 on August 8. The public hearing is slated for October 3.

5 If all proceeds as the developer projects the Texas
6 Department of Public Housing Bond Review Board will take
7 the project to their board November 14.

8 "If approved there, the developer, Trammell
9 Crow Residential, plans to close on the land and the loan
10 in early December 2002 with construction slated to begin
11 in January 2003.

12 "Someone had made the comment that it would
13 have to be done by December 8. That would be the 120 days
14 to close the transaction.

15 MS. MEADE: My name is Kathleen Meade, and I
16 did not intend to speak. But I just want to let everybody
17 know I'm not too proud to admit that I did come from
18 something like this. But I came to Katy to get away from
19 something like this.

20 (Applause.)

21 MS. MEADE: I worked very hard to bring my
22 children out here to give them a good education, to
23 involve them with families who have values and morals and
24 care more about their community and theirselves than they
25 did their possessions and their drugs. And I don't want

1 it here. And I want everybody to know that. I am
2 completely opposed. I'm not too proud to admit where I
3 came from. But please don't send me back there.

4 (Applause.)

5 MR. HUGHES: My name is Robert Hughes. I'm at
6 18402 Little Fawn Drive [phonetic]. What I'd like to
7 point out to Mr. Onion and also to the board, for the
8 record when you're making these decisions and
9 recommendations, please bear in mind a couple things.

10 Trammell Crow is a large company with a lot of
11 resources. And they use these resources to perform
12 marketing to determine where to put these communities and
13 things like that. They also use forms like this to
14 perform their marketing to listen to our objections that
15 they're going to try to overcome.

16 I've seen Mr. Brent Stewart over there writing
17 down every one of our objections. If he truly cared for
18 the community and the people that go there, they would
19 have done more marketing of the existing community to find
20 out these objections ahead of time and present to the
21 community, you know, what their overcomes to those
22 objections would be. Thanks. All I got to say.

23 (Applause.)

24 MR. SABILLA: Up for the second time, Sal
25 Sabilla. Trammell Crow and the board should not

1 misconstrue the number of people that have left. The
2 reason they left is because they got families to take care
3 of. Okay?

4 VOICE: Right.

5 MR. SABILLA: There is churches; there's
6 scouts; there's all kinds of other activities that people
7 are involved with. We're putting our kids to sleep as we
8 speak. And my wife is watching my kids while I'm here
9 protecting our community.

10 So don't be misconstrued, Trammell Crow, or the
11 board, that people are leaving. Because they've got
12 responsibilities. And that's the kind of community you're
13 going up against. And not just one community. Again,
14 several communities. So just be aware of that. Thank
15 you.

16 (Applause.)

17 MS. DUSOW: Good evening. My name is Donna
18 Dusow [phonetic]. I am a resident, homeowner, taxpayer
19 and voter. I reside in the Rolling Green subdivision.

20 I am here to speak my opposition in general to
21 public housing and specifically to the proposed public
22 housing project that's going up. And I have two very good
23 reasons, the first one being crime and the second one
24 again, being access.

25 I myself grew up in public housing in Detroit.

1 It was a brand new project that went in. It was supposed
2 to be wonderful. Everything was shiny and new. Within a
3 very short time, however, we had recreated the very
4 environment and fostered the very environment that we
5 sought to escape initially. The building has ended up
6 dilapidated, run down and ultimately abandoned.

7 You mentioned the fact about criminal
8 background checks. In the beginning, when my family
9 entered, we would certainly have passed that. However, by
10 the time we left only one of us -- and there were nine of
11 us -- would have passed those background checks.

12 It was a veritable breeding ground for crime
13 and drugs. So if you did not have that propensity when
14 you entered there, as we did not, by the time you left you
15 did.

16 There are eight children in my family. I am
17 the only one that has not been in jail, in a drug or
18 alcohol treatment program and the only one that currently
19 holds a job and is a productive member of society.

20 Now, I'd like to talk to you about access.
21 They're correct when you say that there is no public
22 transportation out here. We did not have a car. Neither
23 did most of the people in our housing project. We walked
24 or took the bus to the grocery store, the doctor's office
25 and even the laundromat.

1 Because although there were laundry facilities
2 on the property, they became so dangerous that you did not
3 dare go down there, in the evening especially. So we were
4 forced to take the bus with all of our laundry, get it
5 cleaned and come back.

6 So when we talk about access it was only
7 through hard work, perseverance and a desire to succeed
8 that we escaped that. We don't want to recreate that
9 here. We're trying to live the American dream.

10 I think our country, our community and this
11 economy has been through enough. We want to live the
12 American dream. Please honor and respect that.

13 (Applause.)

14 MR. SIMMS: I know you're getting tired of
15 listening to us, but I have a couple of things to say. My
16 name is Laren [phonetic] Simms. I've been in this
17 subdivision, Rolling Green, 23 years.

18 About eight houses were built when I first
19 moved out here. Nothing else behind me. I'm a 74-year
20 old great-grandfather. And I work a 40-hour work week.
21 So don't think you're going to quit working.

22 One, this program has come about for the State
23 of Texas for bonds. Where does the bonds come from?
24 Taxpayers.

25 Trammell Crow puts up nothing. At least they

1 haven't indicated they have. So they're coming in with no
2 money to work -- no operating capital of their own to put
3 up, taking the proceeds of taxpayers money and then
4 putting people in low-income housing who gets housing
5 assistance paid for by the taxpayer. This is a no-win
6 situation for the taxpayer. And that's why I'm against
7 it.

8 Second, I don't want people living next to me.
9 I bought my house. I'm paying for it. Lack seven years
10 having it paid out. I like my neighbors. I don't want a
11 bunch of strangers coming in who will be like a revolving
12 door. As soon as one comes in, pays their rent first
13 month, gets kicked out, another one comes in.

14 A no-win situation. The entire thing's a no-
15 win situation. I would say the entire program is a no-win
16 situation.

17 (Applause.)

18 MS. LAND: My name is Tracy Land. And for the
19 record, I am opposed to this. I would like to take this
20 time that I've given and ask Trammell Crow to come up here
21 and answer some of these questions that we're presenting
22 tonight.

23 Can you do that?

24 (Applause.)

25 MS. MEYER: You're going to have to repeat the

1 questions.

2 MR. STEWART: Repeat the question?

3 MS. MEYER: Whatever question they ask you,
4 you're going to have to repeat it so she can get it down.

5 MR. STEWART: For the record, my name is Brent
6 Stewart. I'm with Trammell Crow Residential. I live in
7 Austin, Texas. My company is -- the Gulf Coast Region is
8 based here in Houston. Has been here in Houston --

9 VOICE: Can't hear you.

10 MS. MEYER: Just turn it towards you.

11 MR. STEWART: Is that better?

12 (A chorus of yeses.)

13 MR. STEWART: First off, the notion that we
14 don't care or we don't listen or we're not concerned about
15 what you have to say is not true.

16 (Voices speaking at once.)

17 MR. STEWART: Well --

18 (Voices speaking at once.)

19 VOICE: Let him talk.

20 VOICE: Quiet.

21 MR. STEWART: The notion that we don't care
22 what you have to say and that we don't listen is not true.

23 Because we do. We -- when we first were notified that
24 there was some opposition to what we were doing here, we
25 started responding to the emails and to the phone calls

1 that came into my office and to Robert's office.

2 And each email that I've sent out, each email
3 that I responded to, each phone call that I responded
4 to -- my goal was not to try to convince anybody of
5 anything, but was just to have the opportunity to come and
6 at least make sure that the facts about this development
7 were the facts that you all were using to make your
8 decisions.

9 We did meet with one neighborhood association.
10 I -- we met with one neighborhood association.

11 VOICE: Rolling Green.

12 MR. STEWART: Rolling Green. And we did share
13 what we believe are some of our views about this
14 development. And I had hoped that we could have had some
15 dialogue with some others. Not that it was going to
16 change your mind. Not that it was going to bring you here
17 tonight in any kind of different attitude or fashion. But
18 at least you would know who we were and at least you would
19 know what -- you know, what we're about.

20 The other comment that you need to know is that
21 this process does work. I mean, yes, I was employed at
22 TDHCA. No, there is no conflict of interest. And I -- in
23 my tenure at TDHCA worked to help make it sure that the
24 process worked. I believe in this process. I think you
25 should believe in this process. I think you should make

1 your opinions and your voices known like you're doing.

2 I would ask -- and -- I would ask that if you
3 have questions about what we're doing and our development,
4 give us the opportunity in a little bit less adversarial
5 forum to sit down and just share those facts with you. I
6 don't --

7 VOICE: There's not time, though. That's the
8 problem. There's been none of that. We've had to react.

9 (Voices speaking at once.)

10 VOICE: You should have asked three months ago.

11 VOICE: That's right.

12 (Voices speaking at once.)

13 VOICE: Don't take it for granted that we
14 wouldn't listen to you. But you know something? Most of
15 us, the first we heard of that -- this whole thing is this
16 week. So we would listen to you. But it does sound like
17 the time for that has passed. So, you know, don't go
18 putting that on us.

19 MR. STEWART: I'm not putting anything on
20 anybody. But the facts are the dialogue hasn't occurred.

21 (Voices speaking at once.)

22 VOICE: They don't want this. Okay? That's
23 the message.

24 (Voices speaking at once.)

25 MR. STEWART: I got it loud and clear.

1 (Laughter.)

2 MR. STEWART: You know, I got it loud and
3 clear.

4 (Voices speaking at once.)

5 VOICE: indiscernible].

6 MR. STEWART: Can you help explain to me what
7 it is about -- what it is that you see is a conflict?

8 VOICE: Actually, it's greed.

9 (Voices speaking at once.)

10 VOICE: indiscernible] and you're
11 indiscernible]. I mean, look. You know, it doesn't take
12 a rocket scientist to come to that conclusion. And I'm
13 not trying to call you a liar. But, you know, it's common
14 sense. Okay? And if we're going to be indiscernible] on
15 one, relying on common sense to come up with that answer
16 or that conclusion, you know, sue us. But I think, you
17 know, anybody with a lick of common sense would come to
18 that same conclusion.

19 MS. LAND: And it's -- you really, sir --
20 really were kind of rude in just sort of bullying your way
21 into our neighborhood and thinking we were going to accept
22 that. The way to do something like this is basically to
23 ask and to speak at homeowners meetings.

24 I don't think you really were more interested
25 in what the majority of us wanted. What you're interested

1 in is the tax write-off and how this will benefit Trammell
2 Crow. You're not interested in how this will benefit our
3 community.

4 MR. STEWART: Ma'am, in the comments, in the
5 question and the answers is not being recorded. And
6 somebody said earlier that they were concerned that their
7 voices were not being heard. If you want to get it on the
8 record, we've got to have you come up here.

9 MS. LAND: I started this. I'm going to make
10 one more comment then. My name is Tracy Land again. The
11 bottom line is you've heard this. We have only had maybe
12 two weeks as a community to do anything about it. You've
13 obviously seen all of these people tonight. You've been
14 to one homeowner meeting. It's obvious this is not
15 something that we want.

16 What is your response to that? That's all I
17 care about. I don't want ethics or anything else. I just
18 want to know how you feel after all of this. This is --
19 we've had two weeks since the first I heard about it.
20 That's all I ask for.

21 MR. STEWART: And, you know, clearly this
22 hearing tonight is information that we have to go back and
23 evaluate our transaction. I mean, what --

24 MR. ONION: What will you take back? That's
25 what I'm asking.

1 MR. STEWART: I'm sorry?

2 MR. ONION: I'm asking what will you take back
3 to your company and say about all this.

4 MR. STEWART: First off, the number of people
5 that were here, the comments that were said. That's why I
6 was taking notes. Sorry if I can't --

7 MR. ONION: I don't mind you taking notes. I
8 want to know your comments. What are you going to stand
9 up and say came out of this meeting? Yes, they want it?
10 no, they don't? Maybe this isn't a good idea? I want to
11 know your exact thoughts on that, please.

12 MR. STEWART: I don't think I've had time to
13 digest my exact thoughts on this meeting.

14 (Laughter.)

15 (Voices speaking at once.)

16 MR. STEWART: No, no. I mean -- I totally --

17 VOICE: What do you think?

18 MR. STEWART: I totally get the message that
19 you're against it. I -- okay?

20 (Laughter.)

21 MR. REYNOLDS: My name is Scott Reynolds, for
22 the record. And I just want to state for the record that
23 I seriously -- I mean, I'm strongly opposed to this. I
24 think you're doing a severe injustice to the people that
25 will be moving into that complex because of the reasons

1 that were stated here.

2 Clearly, there's no public transportation for
3 these people. There is no jobs for these people? There
4 is a lot of other complications that are going to come
5 about because of this. I just think you're doing a severe
6 injustice to them, as well as the taxpayers in this
7 community.

8 I strongly oppose it so much I walked around to
9 850 houses and personally delivered -- me and my
10 girlfriend -- these fliers right here.

11 (Applause.)

12 MR. REYNOLDS: And if I got one person to
13 attend this meeting after the bulk of this it was worth it
14 to me. Thank you.

15 VOICE: We all signed it.

16 MR. O'DELL: My name's Kevin O'Dell. I'd like
17 to give you the benefit of the doubt that you really want
18 to have dialogue with us. Not being facetious leading up
19 to anything.

20 But what I would recommend in the future --
21 you've heard one underlying thing here. If you really --
22 if your corporation and if Texas really wants to get
23 dialogue and honesty back and not feel like we're being
24 rushed in at the last moment, which we really are at this
25 point -- our notification came late -- you've heard an

1 underlying point, an underlying theme, what is this doing
2 to school districts.

3 I would say on any future type step like this
4 you need to notify at least through the schools. These
5 schools are very good at notifying -- especially in Katy
6 ISD -- they're very good at notifying what's going on in
7 the neighborhood, getting feedback to the parents. And
8 that would be a mechanism.

9 If you're truly serious about doing it. If
10 this is not just the legal -- and not accusing you, not
11 accusing Trammell Crow. Accusing the lawyers out there.

12 We'll put in a one-inch ad in the back of the
13 Sunday paper where no one's ever going to read it and
14 maybe we can sneak it through and say, Well, we told you
15 but you didn't respond. Because that's traditionally for
16 all projects like this. There is no -- been no mechanism
17 for getting it out to the local people.

18 If you're truly serious about it maybe that's
19 what you'll do in the future. And I'm going to give you
20 the benefit and say that you really do. So -- and yes, I
21 will believe in this process if this doesn't happen. If
22 it does happen I'm going to remain pessimistic. Thank
23 you.

24 (Applause.)

25 MR. ONION: We would like to wrap up this

1 meeting. The principal allowed us to have this facility
2 till nine o'clock. It's gone past that. We certainly
3 want to hear your comments. But if you could make them
4 brief, we would appreciate it.

5 VOICE: Ms. Landers [phonetic] wouldn't lie.

6 MR. LAYS: My name's Keith Lays [phonetic].
7 And we live at the Estates at Cullen Park. And for the
8 record, I oppose this.

9 VOICE: For the record, do not blame it on Mr.
10 Wagonner [phonetic].

11 MR. ONION: Thank you.

12 MR. LAYS: First of all, my wife a while back,
13 she looked at opening her own business and she did a lot
14 of demographic research going -- around the community if
15 it would be a viable place to put that business.

16 Don't tell me that Trammell Crow didn't look at
17 these options, knowing that there was transportation
18 problems and everything else that comes with low-income
19 housing. If they haven't done it then surely how can they
20 know that this is going to work.

21 And second, after hearing 2,000-plus people
22 express our views, are you going to still plan to forge
23 ahead with this project?

24 MR. STEWART: I can't give you an answer on
25 what we're going to do. I am going to take this

1 information, I'm going to take what I've heard here.
2 Robert Onion's going to produce a transcript of this
3 meeting and I am going to take that and we are going to
4 evaluate what it is -- what our answer will be and what
5 our responses will be.

6 MR. LAYS: What is your response now?

7 MR. STEWART: I'm not prepared to give that
8 response.

9 MR. LAYS: Then you're not prepared for this
10 project.

11 MR. STEWART: I --

12 (Applause.)

13 MR. STEWART: I don't believe necessarily that
14 that -- you know, a number of speakers come up and talk, a
15 number of speakers come up and make their comments. I'm
16 not prepared to digest that and make a response to that
17 right now.

18 MR. LAYS: Are you willing to go to court over
19 it?

20 MR. STEWART: I'm not going to answer questions
21 like that.

22 VOICE: We are.

23 MR. LAYS: You can take your project elsewhere.
24 We don't want you.

25 (Applause.)

1 MR. JOHNSON: My name is Phil Johnson. I'm a
2 resident of Barker's Ridge. What I've heard here
3 tonight -- well, first of all, let me state that I work
4 for a large corporation and I am in a management position.
5 And I understand what companies go through in making
6 business decisions.

7 So I'm sure that your company knew about these
8 problems that we're talking about. You knew about the
9 transportation problems. You knew about the schooling
10 problems. You certainly had to research all these things.
11 So I have to sit and wonder why did you choose this site.
12 And I still don't know. But you asked a question earlier
13 why would we think that something is not on the level
14 here.

15 Well, I'll tell you. I smell a rat. And the
16 reason I smell a rat is because -- mainly because of you
17 and your position. I didn't know about that before. But
18 when I hear that you used to be on the board --

19 MR. STEWART: No. No.

20 MR. JOHNSON: Or you used to have Mr. --

21 MR. STEWART: I was an employee --

22 MR. JOHNSON: You were an employee.

23 MR. STEWART: -- of the State of Texas.

24 MR. JOHNSON: Okay. Well, then I would contend
25 that Trammell Crow hired you -- earlier you said the

1 system works. I would contend that Trammell Crow hired
2 you because you knew how to work the system.

3 (A chorus of yeses.)

4 (Applause.)

5 MS. BADDUM: My name is Lisa Baddum, for the
6 record. I'm a resident of Rolling Green. And I'm here --
7 I'm going to call you to your face a bold-faced liar. At
8 the Rolling Green Homeowners Association meeting you were
9 asked did you speak to anyone at KISD. You fumbled
10 through your papers and you stated -- and we do have this
11 on tape -- that you weren't sure who you spoke to.

12 In today's newspaper it states from Chris
13 Taylor, the District spokeswoman, "News of the planned
14 development came as a surprise. The only way we found out
15 was when Texas Department of Housing booked our facility
16 for a hearing."

17 Sir, you stated at Rolling Green Homeowners
18 Association meeting that you, from Trammell Crow, spoke
19 with someone. You have lied. That is one lie. If you
20 will tell one lie you will tell another.

21 VOICE: Right.

22 MS. BADDUM: We are not interested in your
23 project because we asked you at that meeting, How would it
24 benefit our community. And again, you couldn't answer the
25 question. You did not know what utility district we were

1 in. There were many other questions that were not
2 answered.

3 We were told, though, we're going to have a
4 lovely pool and a lovely park for your residents. We're
5 not interested in that. We're interested in what will
6 benefit the greater good of this many people.

7 We want you take your project. We have a great
8 place for it, Rural Independent School District. I'm sure
9 they would love it. We do not want it. And I'm calling
10 you to your face a liar. You lied at our homeowners
11 meeting.

12 (Applause.)

13 MS. BADDUM: And if you lied once, you will lie
14 again and again.

15 (Applause.)

16 MR. STEWART: I was the person who contacted
17 Dr. Merrell's office to figure out how it was you go about
18 booking this facility for this hearing. I talked with Dr.
19 Merrell's assistant, a woman, not -- I don't have her
20 name. I don't have her name written down. But I'm sure
21 Dr. Merrell can tell me who her assistant -- who his
22 assistant is.

23 He gave me the facilities person's -- she gave
24 me the facilities person's name, Donna Imes [phonetic].
25 And I worked -- talked with Donna Imes about scheduling

1 this facility. So I don't know what it is that you're
2 referring to me being a liar about. But that's the
3 conversations that were had. And that's what I said the
4 night of Rolling Green subdivision meeting, I believe.

5 MS. PERRY: We have it on -- I believe more
6 what you said --

7 (Voices speaking at once.)

8 MS. PERRY: I'm sorry. Hi. I'm Michelle
9 Perry. I live in Rolling Green. I believe what you said
10 was more along the lines of that you had contacted people
11 at the school district and spoke to them about this,
12 leaving us with the impression that you had said, Hey,
13 we're building a low-income housing project right next
14 door.

15 That was the impression that I got. I cannot
16 remember the exact words. But it was not that, We
17 contacted them to find out how to book the reservation.
18 It was more, We told them that we were doing this and let
19 them know. And that is what I remember. I don't have the
20 tape with me so I can't say your exact words.

21 MR. STEWART: Well --

22 MS. PERRY: But --

23 MR. ONION: Ma'am, we've got two other people
24 here that would like to make comments. And please refrain
25 from calling somebody -- I mean, let's not --

1 MS. PERRY: I just want to also say I'm opposed
2 to this for the record.

3 MR. ONION: Okay. Thank you.

4 (Applause.)

5 MR. ONION: Let the gentleman speak. Thank
6 you.

7 MR. HOWARD: I'm Bob Howard from Barker's
8 Ridge. I'm here as an -- basically, as an interested
9 observer, due to the fact that I had received, like we all
10 did, various handouts and flyers flying around the
11 community with information that is at best pretty -- not
12 very factual. So as suggested, I took it upon myself to
13 see what I could find out, see if I could get some facts.
14 So I called Brent.

15 Brent, I'm Bob Howard.

16 MR. STEWART: Hi.

17 MR. HOWARD: And Brent -- and I called Robert.
18 And I called a few other people. And listening to
19 Brent's comments here, apparently I must be one of the few
20 people in Barker's Ridge who did call him. And I found
21 out a great deal of information. And it helped me
22 understand what was going on.

23 And listening to some of the comments tonight,
24 I gather not many people did call. And that's not saying
25 that I agree with the project. I disagree with it. But

1 at least I came to the meeting tonight with some facts.
2 And it helped me understand to a greater -- much better
3 degree what is going on here.

4 I'm not in this school district. But it's --
5 it is unfortunate that Brent didn't -- wasn't on the
6 program at the outset to tell us more about Trammell
7 Crow's position and what have you. To come in at the end
8 of the program I think it left a very great void.

9 I myself went out and I looked at three of
10 their projects. How many in this room actually went out
11 and looked at some of the Trammell Crow's projects?

12 Here you are. I thought you did. Because you
13 understand the funding of it. I do and you do. And I
14 think -- because I noted particularly, you -- I think you
15 and I are probably the only ones in this room, if I may be
16 so bold, that did our homework.

17 VOICE: Now, maybe you had a little more notice
18 than most of us. Nobody --

19 MR. HOWARD: I got as much notice as any of
20 us --

21 MR. ONION: Sir? Sir?

22 VOICE: indiscernible]

23 MR. ONION: No comments, please. If you want
24 to direct your --

25 MR. HOWARD: In any event, I just wanted to --

1 I'm like the --

2 VOICE: indiscernible]

3 MR. HOWARD: I'm sort of like the fly on the
4 wall. I just wanted to put that point.

5 MR. ONION: Let the man speak, please. Thank
6 you.

7 MR. HOWARD: Victor Treat. I sent my
8 memorandum of my summation of my investigation as -- to
9 Victor, thinking that he was still the president of
10 Barker's Ridge Community Association. I haven't heard
11 anything until I -- for months from Barker's Ridge
12 Community Association until I got Victor's newsletter just
13 recently.

14 So I looked up on the website and I saw
15 Barker's Ridge and he was president. But I sent it to him
16 and he sent me word that he passed it along to the
17 existing president. So there we are.

18 Pleasure meeting you. And so my comments got
19 into our association. And I found the meeting interesting
20 tonight and some of the issues got aired. Thank you very
21 much.

22 VOICE: Thank you for stating your position for
23 the record.

24 MR. HOWARD: You want my position?

25 VOICE: Yes. That's what we asked for.

1 MR. HOWARD: As far -- I can't take a position,
2 sir, with Barker's Ridge Community Association. But
3 clearly, this is not a project that is going to benefit
4 the community.

5 MR. O'BERRY: Hello. I'm Tom O'Berry
6 [phonetic] and I live in Barker's Ridge. And I had a
7 question to the state employees here and also possibly to
8 the representative, if I could get an answer.

9 Is it true tonight -- there's been a couple of
10 statements that over 95 percent of the applications that
11 are presented to the board pass? And if that's the case,
12 how many public forums have taken place of this magnitude
13 to reach a level of above 95 percent?

14 MR. ONION: Robert Onion for the record. I
15 can't verify. I would need to go back to see whether or
16 not that percentage is accurate. I can tell you that with
17 each transaction that we have, once we receive an
18 application then we immediately get started on selecting a
19 site for the public hearing.

20 Each project through the 120 days does need to
21 go through this process. The public hearing needs to be
22 conducted prior to going to our board. The percentage
23 number, whether it's correct or incorrect is maybe not
24 reflective of the number of the transactions that we
25 actually work on, but the ones that actually go to the

1 board. So it may be misleading to say that it's a rubber
2 stamp, as I've heard.

3 Because if you go through this process I can
4 tell you I had 29 transactions this year, of which two
5 were closed. Each of them went through various stages.
6 But we held a lot of TEFRA hearings. Some of the
7 applicants decided to pull out because it was not
8 feasible.

9 This is at the very early stage. You have to
10 order third-party reports. You have to look at the
11 market. The Department does their underwriting of the
12 transaction and reviewing the third-party reports. You
13 also have a lender who will purchase the bonds who acts as
14 a lender and wants to know that it's financially feasible
15 for them to lend the money.

16 So all these conditions that are available that
17 we have to go through determines whether or not we'll move
18 forward and go for board approval. So it's a long
19 process. There's a lot of issues. And not all of them
20 come to fruition.

21 MR. O'BERRY: Thank you.

22 VOICE: Excuse me. But what you're saying is
23 that by the time you have gotten into the stage of a
24 public hearing where it has gone through this lengthy
25 process that the voices of the citizens that attend the

1 public hearing seem to carry very little weight in the
2 final decision.

3 MR. ONION: I don't believe I said that at all.
4 I think our board carefully weighs all the
5 considerations. This transcript will be provided to our
6 board in the board book, as well as all the petitions and
7 all the emails that we've received. And that's what our
8 board considers, along with the financial feasibility of
9 the bonds.

10 MR. PEREZ: Carlos Perez. And I'm opposed to
11 the project. I've got two questions that came from our
12 meeting two weeks ago, our association meeting. How long
13 have you been in business with this company? How long
14 have you been building these type of projects?

15 (No response.)

16 MR. PEREZ: How old is your company?

17 VOICE: Trammell Crow Residential?

18 MR. PEREZ: Yes.

19 VOICE: The Residential.

20 MR. PEREZ: Yes. The building company.

21 VOICE: Late 70s.

22 MR. PEREZ: Late 70s. Okay. I asked how long
23 you guys had to maintain this loan, since like 17 years is
24 what you guys have to stay with the loan.

25 VOICE: indiscernible] had the loan for 17

1 years.

2 MR. PEREZ: Correct. You have maintained the
3 loan for 17 years. And you say that you were going to
4 take care of the property. But I asked back then that you
5 can still buy your way out of the loan and sell the
6 property to somebody else and pay a penalty. Is that
7 correct?

8 VOICE: No.

9 MR. PEREZ: You cannot buy your way out of that
10 loan? You're telling me that?

11 VOICE: indiscernible].

12 MR. STEWART: Buy your way out of the loan. If
13 the -- there -- I think there are two issues here, one
14 that we did talk about at the meeting the other night,
15 which is is there a vehicle or a mechanism for Trammell
16 Crow to sell its interest in the property and somebody
17 else come in and buy the interest in the property.

18 And that answer is yes. There is a vehicle for
19 that to occur. And it does occur with the approval of the
20 state. As far as buying the loan -- I mean, as far as the
21 loan goes, there are abilities to prepay the loan. In
22 instances where the loan is prepaid the affordability
23 restrictions and the rent caps do not go away. They stay
24 in place.

25 MR. PEREZ: For 17 years?

1 MR. STEWART: The affordability restrictions
2 and the rent caps stay in place for 30 years, regardless
3 if the loan goes away.

4 MR. PEREZ: And for the record, I'm opposed to
5 the project.

6 (Applause.)

7 MR. OSBORN: Hello. I'm John Osborn. And for
8 the record, I'm opposed personally. And I have two quick
9 questions for you.

10 One is I'm sure you all have done pro forma
11 statements on this project already and can we -- or will
12 you allow us to see those pro forma statements on this
13 project, what you intend to do with it, what you intend
14 to -- how you intend to fund it, et cetera, et cetera?

15 And the second question is after hearing over
16 800 people at this meeting, over 1,800 petitions -- and
17 we've just begun -- why would you want to build here?

18 (Applause.)

19 MR. STEWART: Again, this is a process. And
20 this hearing tonight is part of that process. I don't
21 know how to answer that question.

22 VOICE: Excuse me.

23 (Voices speaking at once.)

24 MR. STEWART: Oh, I'm sorry. I thought --

25 VOICE: Why this property?

1 VOICE: Why did you select this property?

2 MR. STEWART: Okay. I can answer that one.
3 The Legislature, as Representative Callegari is aware,
4 directs the policies of how funding mechanisms for the
5 State of Texas are done.

6 Through the last legislative session -- session
7 and through changes made by Senate Bill 322, which was the
8 Sunset Bill through the Texas Department of Housing, there
9 were many, many major policy shifts in housing in the
10 State of Texas.

11 One of those policy shifts were to spread the
12 housing around. So in July, August of last year, as we
13 were out looking for this site to submit to the lottery
14 process that occurred last October, we went and found a
15 site that -- where there was not a concentration of low-
16 income housing, where we felt that there was a need for
17 affordable units and a site that made sense from a
18 development standpoint and a price standpoint.

19 That's why the site was selected. It, along
20 with 30 other sites were submitted into a lottery process
21 that the Bond Review Board uses to allocate these bonds.
22 That -- I don't know if you're familiar with the lottery
23 process or how that works. I'll be happy to share that
24 information with you. Or Robert can.

25 VOICE: Did you draw that location?

1 VOICE: Can you tell us some of the other
2 locations, as well?

3 MR. STEWART: That we chose? They're
4 statewide. They're Dallas, Austin, Houston.

5 VOICE: Right here.

6 VOICE: The 30- --

7 VOICE: Where are the others that went into the
8 process?

9 MR. STEWART: There were -- how many total
10 that -- Trammell Crow Residential submitted 30. There
11 were 300 of these things that got submitted into the
12 lottery.

13 VOICE: Where were those others? What general
14 areas were the others?

15 MR. STEWART: They were all over.

16 VOICE: Were there any other in Harris County?

17 VOICE: Right.

18 MR. STEWART: There is a number of them in
19 Harris County, yes.

20 (Voices speaking at once.)

21 MR. ONION: We're not getting comments on
22 record. We need to --

23 Haven't I seen you before?

24 MR. OSBORN: I just want him to answer my first
25 question.

1 Can we see the pro formas on this project?

2 MR. STEWART: The State has that entire
3 application right there that has all information in it
4 about the project. And --

5 MR. OSBORN: Why can't you furnish us the pro
6 forma? Why do we have to go through the State? Because I
7 have no interest in taking a binder and going through it.
8 I just want the pro forma. I'm an accountant. I can go
9 through it really quick. I'm sure it's not more than 20,
10 30 pages. Why can't we just get the pro forma?

11 MR. STEWART: I'll be happy to get that for
12 you.

13 MR. OSBORN: Okay. Great.

14 MR. STEWART: Just give me a call.

15 MS. POTH: My name is Sheri Poth. I just have
16 a quick question. What was the need that you found for
17 this area, seeing that there's no transportation and no
18 jobs, employment, the other things that we mentioned all
19 night? What was the need? And now that we've presented
20 all this, do you still see the need?

21 MR. STEWART: When I referred to need as it
22 related to initially selecting this site to submit into
23 the lottery, it had to do with a comparison of what the
24 rents are in the area to what the restricted rents are in
25 the area.

1 One of the components or one of the important
2 factors that the Legislature laid out had to do with if
3 we're going to put these bond transactions in areas where
4 there are no rent savings, then that's not a good use of
5 the funds. Just like somebody alluded to here earlier.

6 Our market study shows that in this area with
7 the occupancies and the rental rates that are being
8 charged that there are rent savings on that property.

9 Now, I wrote down about this town home project
10 that somebody mentioned that says that they have units at
11 \$550 down the street.

12 VOICE: Right down the street.

13 MR. STEWART: And I'm going to go look at that.

14 So --

15 (Voices speaking at once.)

16 MS. LEVINSON: For the record, my name is Betsy
17 Levinson. My husband is a real estate developer. And I
18 would be probably the very last person who would want one
19 of his deals to be -- I don't -- but questioned and probed
20 as we have done this one.

21 But I would also like to think that he would
22 have more foresight into where he builds his projects. My
23 father-in-law's been in real estate for many, many years.
24 And my brother-in-law's currently building in Houston,
25 Texas under a similar program. Not this one, but a

1 similar program involved in government bonds.

2 And I know that he stayed with us the last time
3 that he was town looking for property. And I have heard
4 his discussions with his brother because of the similar
5 businesses that they are in. My husband doesn't build for
6 government through the bonds.

7 He was looking at a piece of property on
8 Highway 6 just behind the race track at corner of Pine
9 Forest. He chose not -- he looked at it, asked about the
10 structure, the support structure of the community, found
11 out there was no transportation and knew that that would
12 not work for the tenants that he was building this complex
13 for. And he did that ahead of time.

14 And I would like for Trammell Crow -- I would
15 like for you to go back -- I know this isn't your decision
16 to make, whether to build this or not. You're their
17 spokesperson. And I would like for you to take it back to
18 Trammell Crow and let them know that the majority of the
19 people's concern is about the support structure that these
20 people would living around and within. And it's not here.

21 And I'd like the board to take back -- I'm a
22 Type-A type of person. And when people stand up and yell
23 at me or stand up and question me and ask me questions
24 that I'm not ready to answer my first reaction is, Well,
25 I'm not going to take that and I don't have to listen to

1 them, I'm not going to do it.

2 I'd like for you all to know that these people
3 are very passionate about this. And sometimes when people
4 are passionate about it their heart is so into it that
5 they're not going to think how you're going to take it.
6 Because they fell like sometimes you're not thinking how
7 they're going to take what you build or what you're doing
8 when you go through your process.

9 So I'd like for you all to take back to the
10 board when -- that's what this is for, is for you to take
11 back our thoughts to the board, take them back that we're
12 very passionate about our community and we really, really
13 hope that you vote no for this project.

14 Thank you.

15 (Applause.)

16 MR. MUELLER: My name is Wayne Mueller. Last
17 name is spelled M-U-E-L-L-E-R. I've got 22 more years of
18 mortgage payments on a patio home in Bear Creek. I'm
19 talking Wood Fern.

20 I'd like to go back to the question on the
21 selection of the property for submittal into the lottery.
22 You elaborated on the rent structure in the surrounding
23 area. But what this group has been concerned about today
24 and I'm concerned about is the issues of transportation,
25 the medical facilities, job facilities. I know you can't

1 have made that selection for that property on one
2 criteria.

3 If you could just answer yes or no if you
4 looked at the other criteria; and if you did look at the
5 other criteria, can you elaborate on what your -- what the
6 studies showed for transportation, medical services,
7 occupations and that sort -- all the issues that have been
8 addressed here tonight?

9 MR. STEWART: Our experience is that on a
10 income-restricted property at the 60 percent level people
11 have cars and that public transportation, bus systems,
12 yes, it would be an added benefit. But generally, these
13 people have cars.

14 Our market study shows that there are 1,800
15 qualified households within a three-mile radius of this
16 site. That's the primary market. That's the primary
17 target market for this site. The --

18 VOICE: But they're already living in homes.
19 Right?

20 VOICE: Where they live here?

21 VOICE: Where do they live?

22 MR. STEWART: The 1,800 -- no. Those are
23 renters.

24 VOICE: How do you know that?

25 MR. STEWART: That's what my market analyst is

1 telling me.

2 VOICE: With 1,800 renters in the area --

3 MR. STEWART: 1,800 qualified households.

4 (Voices speaking at once.)

5 MR. STEWART: Yes.

6 VOICE: How many total residents are in a
7 three-mile radius -- how many total households?

8 MR. ONION: Repeat the question.

9 MR. STEWART: How many total households. I
10 don't have that information with me. I don't have that
11 information.

12 VOICE: 18,000 [sic] within a three-mile radius
13 of this area? Do you have maps?

14 MR. STEWART: No. I've seen the market study.
15 I don't recall those -- there's a lot of numbers in that
16 market study. I don't recall all the numbers in that
17 market study. I don't mean to be evasive. It's in the
18 market study. Call me and I'll give it to you.

19 VOICE: Can you post any of that information on
20 the website?

21 MR. STEWART: All of the information that gets
22 used by the board to make the decision about this project
23 gets posted.

24 I'll let you answer about posting the market
25 studies and --

1 MR. ONION: We do not post the market study.
 2 We have a package that is submitted to the board. And
 3 that is what we package and put on the website. It's very
 4 lengthy. To put the market study, as well, you can see
 5 how thick the book is. I don't know that we have enough
 6 capacity to put all that stuff on the website.

7 However, if you would like to give me a call,
 8 be happy to get you a copy of that, do the Open Records
 9 request. We find out how many pages there are. We charge
 10 a certain fee for that. And we'll be happy to get that to
 11 you.

12 MR. REYNOLDS: For the record, my name is Scott
 13 Reynolds again. I live in Barker's Ridge. I just wanted
 14 to ask a question basically about the level of income
 15 that's required for a family to receive Section 8 type tax
 16 grant, I believe -- I don't know if I'm stating it right.
 17 But I did a little research on this.

18 And I did notice that from the texashousing.org
 19 website it does list that according to their calculations,
 20 a five-person family in Houston can't get a tax-credit
 21 apartment if its income is above \$37,908. That's a five-
 22 person family. Cannot make more than \$37,908.

23 I'm not sure if we have, you know, in our
 24 general area 1,800 people or the number that was stated
 25 that would really meet that criteria. I think these are

1 going to be people that are coming from other areas
2 predominantly to populate this housing project.

3 And if this is what I think it is, a low-income
4 housing tax-credit program, then they would be required by
5 law to allow Section 8 vouchers. They cannot deny people
6 a Section 8 voucher.

7 That's it. Thank you.

8 MR. MURPHY: My name's John Murphy. I never
9 thought I'd be standing up at this microphone. I actually
10 left the house tonight thinking -- my son asked me, Where
11 are you going? I go, To something I don't really need to
12 be at but I got to.

13 And I'll tell you. I got one question. We
14 stand a chance of winning the lottery than we do the
15 possibility of only getting shut down by a board the state
16 has put together. Is there any chance, because of public
17 opinion, that Trammell Crow would ever back out of this?
18 And is there any chance? How deep are you guys in?

19 My son has a comment he always makes. I think
20 he got it from a song. It's All About the Benjamins.
21 This is about money. So how much money would it take?
22 How deep are you guys in? Can we all chip in?

23 VOICE: Yes.

24 (Applause.)

25 MR. REYNOLDS: Mallory Brucelo again. This is

1 in reference to -- there is actually another project
2 that's going in that's low-income housing up in
3 Copperfield [phonetic], 250 some odd units. I believe
4 it's Copperwood something-or-another.

5 I know for a fact that the developer actually
6 went to the state -- at that time went to area businesses,
7 said, We're going to be bringing in this development, will
8 you, Wal-Mart, will you, Target, will you, all you stores
9 be able to absorb these people so that there will be jobs.

10 So this developer actually did some smart
11 developing. And he went and he got a location where these
12 people can work and have access. That's the kind of
13 location we need to put people that don't have means.

14 Now, let me back up real quick. You mentioned
15 about having been associated with the Texas Department of
16 Housing and Community Affairs. And you mentioned the
17 Sunset Commission. It seems to me that the Texas
18 Department of Housing and Community Affairs was threatened
19 with being virtually shut down for all the graft and the
20 under-the-table projects that were being rubber stamped at
21 that time.

22 They didn't high have rankings, but they were
23 winning the awards. And there have been numerous articles
24 written. And I have a whole heck of a lot of them. But
25 that might be why we're a little skeptical when you say

1 that you'll come and talk to us. Because you may come
2 talk to us. We don't expect to be ignored any more.

3 You said the process works and yes, it does.
4 What happens is a notice is put in the paper, put in very
5 small print, which is legal -- according to law -- certain
6 time frame lapses. The hearing is mandated and we are not
7 expected to show up because they don't expect people to
8 read the legal notice.

9 If you don't read the legal notices you don't
10 know what's going on in your area. I've been reading them
11 for two years every day.

12 So that's something that you all need to start
13 doing. Okay?

14 (Applause.)

15 MS. BRUCELO: They figure that if you're not
16 paying attention and you don't know what's going on they
17 can cram it down your throat. So it's your job to show
18 that you're paying attention and you're not going to put
19 up with it anymore.

20 And I'm opposed to it.

21 (Applause.)

22 MS. MEYER: Okay. Seeing that there's not
23 anybody else standing up here next to the mike --

24 MS. ZIMMERMAN: This is closing it down guys.
25 For the record, we would like to ask for a copy of the

1 sign-in sheet, as well as minutes from this meeting.

2 MS. MEYER: You need to request it in writing.

3 MS. ZIMMERMAN: Request it in writing? I did
4 it to him in my email today. But he didn't my letter that
5 I sent him, either. So -- thank you.

6 MS. MEYER: If you'll just put it in --

7 Now, seeing that there's nobody else in line,
8 I'm now going to adjourn the meeting. It is 9:45.

9 Just to let you know, I have cards here with my
10 name, my phone number, my fax number, my email address.
11 Again, if you have questions for me that you need
12 answered, please put it in the subject line. Otherwise,
13 it's going to get copied over.

14 You know, I'm assuming I'm probably going to
15 get 700 to a thousand emails, if not more. And for me to
16 try to go through those on a timely basis is not going to
17 happen.

18 So if you need a specific question answered
19 would you please put questions in the subject line?
20 Otherwise, I'm just going to copy it over and submit it to
21 my board. Okay?

22 If you have an open records request that you
23 would like to have the pro forma, if you would please send
24 me an email or a fax. Got to have it in writing for open
25 records. So, I mean, that's our way of tracking things.

1 So I've got to have it in writing. And I'll be glad to
2 submit that information to you. I just -- I need you to
3 ask for it in writing.

4 VOICE: When do you submit your minutes to the
5 board?

6 MS. MEYER: It normally takes about a week to a
7 week and -- with this lengthy one, it's probably going to
8 take close to a week-and-a-half to get it. I will ask our
9 transcriptionist if we can get it sooner. The transcript
10 will also be available on public record, and you're
11 welcome to request a copy of that.

12 Yes. Here are my cards. And if you want to
13 just take several of them and pass them out for all the
14 people that left, that's -

15 (Whereupon, this hearing was concluded.)

C E R T I F I C A T E

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MEETING OF: Texas Department of Housing and Community
Affairs Public Hearing
Greenland Apartments

LOCATION: Houston, Texas

DATE: October 3, 2002

I do hereby certify that the foregoing pages,
numbers 1 through 126, inclusive, are the true, accurate,
and complete transcript prepared from the verbal recording
made by electronic recording by Sue J. Brindley before the
Texas Department of Housing and Community Affairs.

(Transcriber) 10/10/2002
(Date)

On the Record Reporting, Inc.
3307 Northland, Suite 315
Austin, Texas 78731

COMMITTEE ON THE BUDGET

COMMITTEE ON EDUCATION
AND THE WORKFORCE

COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE

ASSISTANT MAJORITY WHIP



JOHN CULBERSON
7TH DISTRICT, TEXAS

September 24, 2002

Robert Orin

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HOUSTON, TEXAS 77024-3490
713.682.8828
FAX: 713.680.8070

INTERNET:
WWW.CULBERSON.HOUSE.GOV

RECEIVED

OCT 03 2002

EXECUTIVE

Edwina Carrington
Executive Director
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711-3941

**Re: Greenland Apartments
SW corner/Barker Cypress & Greenland Way
Harris County, Texas**

Dear Ms. Carrington:

Please consider this letter notification of my **strong objection to the proposed Greenland Apartments**, a 252 unit multifamily residential rental development to be constructed through the issuance of tax-exempt revenue bonds at the SW corner of Greenland Way and Barker Cypress Road in Harris County, Texas.

This is a completely inappropriate location for such a development. Allow me to explain:

1. It is located in the Katy Independent School District (KISD), one of the fastest growing districts in the state. KISD's current growth rate is 7.9%; enrollment will pass 40,000 this year. Based on demographic projections, this development would generate 197 additional students, placing a severe burden on adjacent school facilities.
2. An influx of 197 students would create more than \$1,182,000 in additional annual costs to KISD, and this figure does not include any cost projections for possible facility expansion needs. In addition, the Greenland Apartments would not generate any additional tax revenue because, due to the Robin Hood redistribution formula, the State of Texas withholds a dollar of state funding for every dollar of new property value added to KISD's tax rolls.
3. The proposed location is within a subdivision of single family dwellings in an area that was new and thus especially hard hit during the mid-80s economic downturn. Residents have only recently seen their property values recover. A multifamily housing unit will adversely affect the value of these single family homes.

4. Mobility problems are daunting. There is no readily available public transportation. The area's main artery, I-10, carries 3 to 4 times the traffic for which it was designed. Although I-10 is to be reconstructed and four desperately needed east/west arteries are incorporated in the design, the reconstruction will not be completed for 6 or 7 years at the earliest, and perhaps never if a recently filed court case designed to stop the reconstruction is successful.

5. Without mobility, there are limited job opportunities. The area has few employers.

6. Again, there is no readily available public transportation and no grocery stores, dry-cleaners or even a convenience store within easy walking distance. There are no sidewalks.

In summary, this area is facing a number of significant challenges at this time. Chief among these challenges is an exploding school enrollment, a limited tax base and near gridlock in transportation. Approval of the Greenland Apartment proposal would significantly increase the intensity of these challenges. This proposal is completely inappropriate for this location.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink that reads "John Culberson". The signature is fluid and cursive, with a large loop under the letter "C".

John Culberson
Member of Congress

JC:jc



JON LINDSAY
District 7

**The Senate of
The State of Texas**

*Robert
Ingram*

**COMMITTEES
INTERGOVERNMENTAL RELATIONS
VICE-CHAIR
FINANCE
NOMINATIONS**

October 1, 2002

**RECEIVED
OCT 03 2002
EXECUTIVE**

Ms. Edwina Carrington
Executive Director
Texas Department of Housing and Community Affairs
Post Office Box 13941
Austin, Texas 78711-3941

Dear Ms. Carrington:

I am contacting you regarding the proposed Greenland Park Townhome Development in west Harris County. I appreciate the Department holding a public hearing on what has become a rather controversial residential development in my district.

As an elected official, it is my duty to represent my constituents' views on matters for which they have a concern. Having said that, I must convey that the residents in the neighborhoods surrounding the proposed apartment community strongly oppose this project moving forward.

My office has been inundated by many phone calls and letters from constituents voicing their concerns over this project. While the area has a need for quality affordable housing, the recent proliferation of developments such as these across the Harris County area has sparked a great outcry from local residents and school district officials alike. I would hope that in your position as Executive Director of the Department of Community Affairs, you would take into consideration the views of all parties involved in housing development proposals, especially those of the local residents who will be most impacted by this development. As public officials, we are all in the position of representing the views of the fine citizens of this State. Please keep this in mind as you thoughtfully listen to the feedback local residents and other interested parties provide you regarding this project.

I appreciate you taking the time to allow me to share the views of my constituents with you. If you would like to discuss this issue with me further, please do not hesitate to call.

Sincerely,

Jon Lindsay

JON LINDSAY
State Senator

TEXAS HOUSE OF REPRESENTATIVES

CAPITOL OFFICE:

P.O. Box 2910
AUSTIN, TEXAS 78768-2910
(512) 463-0528
(512) 463-7820 FAX



BILL CALLEGARI
STATE REPRESENTATIVE

DISTRICT OFFICE:

1550 FOXLAKE DR., STE 114
HOUSTON, TEXAS, 77084
(281) 578-8484
FAX (281) 578-1674

October 18, 2002

Edwina Carrington, Executive Director
Texas Department of Housing and Community Affairs
P. O. Box 13941
Austin, TX 78711-3941

RECEIVED

OCT 21 2002

EXECUTIVE

Dear Ms. Carrington:

I am writing to voice my opposition to the proposed Greenland Apartments project in west Harris County. My constituents and I expressed our opposition during the October 3, 2002, TDHCA public hearing on this controversial development in my district.

My office has received an unprecedented number of phone calls and emails from constituents voicing their concerns about this project. My constituents are emphatically opposed to the Greenland Apartments project.

While Texas has a need for quality affordable housing, the increase in these projects located in Harris County has resulted in mounting grass roots opposition efforts from both local residents and school district officials.

The proposed location is in a subdivision of single family homes. A multifamily housing unit will adversely affect the value of these single family homes.

This development would generate an estimated 197 students to the Katy Independent School District (KISD), placing an immediate burden on one of the fastest growing districts in the state. Not including any cost projections for possible facility expansion needs, this would create more than \$1,182,000 in additional costs to KISD.

Due to the Robin Hood redistribution formula, the State of Texas withholds a dollar of state funding for every dollar of new property value added to KIDS's tax rolls. The Greenland Apartments would not generate additional tax revenue to compensate for these students.

If you would like to discuss this issue with me further, please do not hesitate to call.

Sincerely,

A handwritten signature in black ink that reads "Bill Callegari". The signature is written in a cursive, slightly slanted style.

Bill Callegari



Leonard E. Merrell, Ed.D.
SUPERINTENDENT

September 19, 2002

Edwina Carrington, Executive Director
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, TX 78711-3941

RECEIVED
SEP 26 2002
EXECUTIVE

RE: Greenland Park Townhome Development
Southwest Corner of Barker Cypress Road
And Greenland Way
TDHC Ref. #2002-012

Dear Ms. Carrington,

The Katy Independent School District has just been notified of the proposed Greenland Park Townhome Development, which is planned to be situated adjacent to our recently completed Schmalz Elementary School. It has been identified that funding for this development will be through issuance of tax-exempt revenue bonds. A public hearing regarding this development is scheduled for October 3 at Schmalz Elementary School.

Katy I.S.D.'s enrollment is expected to pass 40,000 this year and our current annual growth rate is 7.9% making it one of the fastest growing districts in Harris County. As a result, the potential impact on Katy I.S.D. of constructing this 252-unit apartment complex is significant. The schools that the students from this property would feed into exceed or are approaching operating capacity. At the elementary level, classroom space is a particular concern due to state mandated class caps. A large number of new students from a high-density residential apartment complex would place an immediate burden on school facilities that have only a minimum amount of classrooms available.

Less than 35 % of KISD expenditures are covered through state funding formulas and because of explosive growth in this part of the Houston area, the District is quickly approaching the legal tax cap. A high-end influx of 197 students (which is .78 students per unit based on our demographer's projections) would create more than \$1,182,000 in additional annual costs. That figure includes no funds for possible facility expansion necessitated by the increased enrollment. For these reasons, the addition of a 252-unit apartment complex to KISD's tax base would be a tremendous financial liability rather than an asset.

Katy I.S.D. is willing to dialogue with the Texas Department of Housing and Community Affairs as it considers this application but asks the Department to

Ms. Edwina Carrington
September 19, 2002
Page 2

consider the negative fiscal impact that construction of the proposed property will have on the school district. Further, new residential construction in our District does not generate additional revenue to pay for these students. For every dollar of new property value added to our tax rolls the State of Texas withholds a dollar from state funding, hence the net effect to our revenue is zero.

Furthermore, this high-density residential development-funding program tends to direct projects toward growing metropolitan areas such as Katy, thus compounding the impact for our District. We feel strongly that the State of Texas should recognize the varying financial burdens these state subsidized programs create. If the State is going to steer developments to particular independent school districts, money to educate these students should follow. We appreciated the opportunity to express these same opinions at the public hearing held by the TDHC on April 22, 2002.

If you need more information or have specific questions, please do not hesitate to contact me.

Sincerely,



Leonard Merrell, Ed.D
Superintendent

Cc: Congressman John Culberson
Senator J.E. "Buster" Brown
Senator John Lindsay
Representative Tallmadge Heflin
Representative Bill Callegari
Representative Gary Elkins

Gammon & Pendergraft

Attorneys at Law
An Association of Professional Corporations

One Greenway Plaza, Suite 1005
Houston, Texas 77046-0104
Telephone (713) 964-5330 Facsimile (713) 964-5341
www.gammonlaw.com

Robert L. Pendergraft

email: rpendergraft@gammonlaw.com

November 1, 2002

Via Facsimile (512) 475-3085

Robert Onion
Director of Multifamily Finance
Robbeye G. Meyer
Multifamily Financial Analyst
Texas Department of Housing and Community Affairs
507 Sabine, #800
Austin, TX 78711-3941

RECEIVED

NOV 01 2002

Multifamily Finance Division

Re: November 12th and November 14th Hearings on the Greenland Apartments Project in Katy, Texas

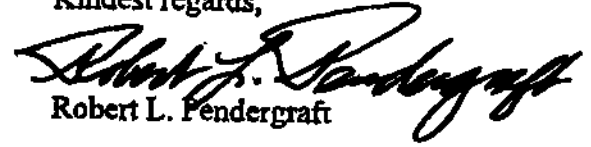
Mr. Onion and Ms. Meyer:

The undersigned represents Barker's Ridge, Mayde Creek, and other concerned Home Owner's Associations in the same area. We are requesting time at the November 12th Bond Review Board Planning Session and the November 14th TDHCA Board Meeting to present comments and/or evidence opposing the Greenland Apartments on at least the following grounds.

1. **LOCATION:** Since the location of the proposed project is immediately adjacent and sharing a common property line with the Schmalz Elementary School, it presents serious problems.
2. **MARKET STUDY DATA:** The Market Study submitted by Trammel Crow is inaccurate and incomplete.
3. **CONFLICT OF INTEREST:** We have requested that Brent Stewart of Trammel Crow forward a copy of the opinion letter from TDHCA's counsel upon leaving their employment. As yet we have heard no response from Mr. Brent Stewart and are now asking each of you to provide us with this letter. Absent our opportunity to review same, we may take the position that participant is ineligible for consideration because of Mr. Stewart's prior relationship to the department.

Please post this correspondence on your website for review and consideration by the members of the TDHCA, the Bond Review Board, and others interested parties.

Kindest regards,



Robert L. Fendergrafi



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS MULTIFAMILY FINANCE DIVISION

Compiled Results from Public Comment

1. Six Hundred and Forty (640) persons signed-in at the October 3, 2002 Public Hearing for the Greenland Apartments. Six Hundred and Ten (610) signed as against the proposed development and thirty (30) showed no opinion.
2. TDHCA received one (1) petition containing 1047 signatures in opposition and another (1) petition containing 855 signatures in opposition. (*the signatures have **not** been verified so there is no account for duplication of signatures*)
3. TDHCA received copies of twenty-eight (28) letters that were sent to the Governor's Office. A copy of the response from Dede Keith, in the Governor's Office, is following this summary. The comments from those letters are summarized below with the other comments received by TDHCA.
4. TDHCA received thirty (30) emails and ten (10) letters of public comment concerning the Greenland Apartment development. Below is a summary of the concerns:
 - 1) Public transportation is not within walking distance.
 - 2) No medical facilities nearby.
 - 3) Limited job opportunities.
 - 4) Limited basic services (ie...grocery, retail facilities, daycare, social services).
 - 5) Overall damage to the community.
 - 6) Negative effect on property values.
 - 7) Increased crime rate.
 - 8) Potential flight of middle-class income tax support.
 - 9) Increased traffic / congestion.
 - 10) Location next to elementary school.
 - 11) Reduction in home equity for college tuition/retirement.
 - 12) Increased taxes.
 - 13) School over crowding / use of portable buildings.
 - 14) Currently 39% of the children qualify for free lunches.
 - 15) Only 41% of the elementary children are anglo, representing a diverse social group currently.
 - 16) Negative impact on schools.
 - 17) Schmalz Elementary School is a Title 1 / Bilingual school / compromise the quality of education.
 - 18) Increased costs for "at risk" children.
 - 19) No benefit to the community.
 - 20) Potential increased flooding and pollution.
 - 21) Additional stress on utility district.
 - 22) Inadequate infrastructure within the community.
 - 23) Serviced by a voluntary fire department and only two police officers.

- 24) Property located near a landfill (about 1/10th mile).
- 25) Gross misuse of tax payer money.
- 26) Burden on community.
- 27) Poor location to put a multi-family complex next to single-family homes.
- 28) Proposed rents are not lower than current rents in the area.
- 29) Vacancies in apartments and other affordable housing with comparable rents.
- 30) There is affordable single-family housing in the area.
- 31) Migrating low-income, socio-economic conditions / problems to out lying areas of the city
- 32) Promoting low income housing projects in our backyard.
- 33) There are plenty of other areas in the county where home values would not be affected by a project like this.
- 34) Do not want this type of development in the neighborhood.
- 35) Do not want to see our property values crippled and our neighborhood turned into a “ghetto” or slum.
- 36) Previous resident of Highland Meadows Apartments attests of crime and poor living conditions at the complex.
- 37) Does not follow President Bush’s National Housing Policy.
- 38) Use funds to help build single-family homes instead of multi-family developments.
- 39) HUD has torn down approximately 33,000 units since 1993 and only built 7,400 in return.
- 40) Helping Trammell Crow Residential become richer.
- 41) Developing a Low-Income Housing Project in a pricey track of land is an aberration of the market.
- 42) Conflict of interest between TCR / Brent Stewart and TDHCA which could possibly lead to criminal charges.
- 43) Developer has an unfair, competitive advantage in the market.
- 44) Developer is thinking of his own interests and not the interests of the community.
- 45) Ill conceived development by the developer to obtain subsidized financing to bolster its profits.
- 46) Local, State and Federal representatives oppose the development.
- 47) Take offense to Mr. Bogany’s comments of “social racism and aversion to poor people”.

This information was compiled from all correspondence received by the Multifamily Finance Division as of November 1, 2002.

Robbye G. Meyer
Multifamily Housing Finance



OFFICE OF THE GOVERNOR

RICK PERRY
GOVERNOR

October 31, 2002

Mr. Scott Bratton
18527 Iron Lake Drive
Houston, TX 77084-5599

Dear Mr. Bratton:

Thank you for taking the time to share your concerns regarding a proposed affordable housing development in your community.

I am forwarding a copy of your correspondence to Edwina Carrington, Executive Director of the Texas Department of Housing and Community Affairs (TDHCA), for her response regarding the concerns you have raised. This office expects a thorough evaluation of the merits of the Greenland Apartments proposal by the TDHCA board. If approved at the board level, the Texas Bond Review Board will review only the appropriateness of the debt financing.

We appreciate your input on this and all issues and will keep your comments in mind. Please do not hesitate to contact us whenever we may assist you.

Sincerely,

A handwritten signature in black ink that reads "Dede Keith". The signature is written in a cursive style with a large initial "D".

Dede Keith
Deputy Director of Administration and Constituent Services
Office of the Governor

DK:kba

cc: Ms. Edwina P. Carrington

September 26, 2002

Robert Onion

Director, Multi-Family Finance

Texas Department of Housing & Community Affairs

P.O. Box 13941

Austin, Texas 78711-3941

Re:Greenland Apartments, Series 2002

Dear Mr. Onion,

On behalf of the community surrounding Schmalz Elementary, we are writing to you regarding the Greenland Apartment project as detailed in the Notice of Public Hearing published in the Houston Chronicle on August 30, 2002. As stated therein, Greenland Apartments Limited Partnership has applied for tax-exempt multifamily residential rental project revenue bonds (and if necessary, taxable bonds) to finance a 252-unit multifamily residential rental townhome development on the 14.5 acres of land located on the southwest corner of Greenland Way and Barker Cypress Road, which is the property directly adjacent to Schmalz Elementary.

This letter is to formally notify you of our community's concerns and consequential opposition to awarding a tax-exempt revenue bond for financing Greenland Apartments. We contend that the chosen location is totally inappropriate for the Greenland Apartment multifamily housing project for the following reasons. The Barker-Cypress area has no public transportation. It has no nearby medical facilities such as clinics, doctors offices, or hospitals. It is a dormitory type of community with only schools, churches, and sports facilities nearby and therefore offers no employment opportunities. The only grocery store nearby is almost a mile a way and is considered a "high-end" grocery store. We submit that there is absolutely no demand for this type of housing along Barker-Cypress and Greenland Way and supportive financing from the TDHCA is unwarranted.

Our problem with the proposed development is not with the potential residents of Greenland Apartments. We are a multi-ethnic community made up of individuals of varying economic abilities. In fact, there are many affordable homes available for rent or purchase in our neighborhoods that individuals within the income limits served by this project could afford. We

do however question the motivation and responsibility of the developer and wonder whether this project is being considered on its own merits or if the involvement of a former TDHCA employee is influencing this project's support.

Mr. Onion, it is our intention to raise these and other related issues at the Public Hearing scheduled for October 3, 2002 at Schmalz Elementary. We anticipate several hundred local residents and community representatives will attend as well as members of the press. In the interim, we enclose a photocopy of a petition signed by 1047 local residents of the surrounding area. This petition is an expression of the major concern felt by the local community. The primary copy of this petition will be handed over to the TDHCA mediator at the Public Hearing when more people have had an opportunity to sign it.

Thank you for listening to our concerns.

Sincerely yours,

Tess Zimmerman, Tracy Kotlar, Rachel LeMeileur, and Michelle Perry
(for the community surrounding Schmalz Elementary)

Please reply to:

Tess Zimmerman

1911 Hollyoak Dr.

Houston, TX 77084

(281)579-8472

tessyz@earthlink.net

Copies (letter only) to:

Edwina Carrington, TDHCA Executive Director

Rick Perry, Governor of the State of Texas

Joey Longley, Sunset Advisory Commission Director

Jon Lindsay, Texas State Senator

Bill Callegari, Texas State Representative

Steve Radack, Harris County Commissioner, Pct. 3

John Colberson, United States Representative

Phil Gramm, United States Senator

Kay Bailey Hutchison, United States Senator

We, the undersigned, hereby oppose the construction of a multi-family housing unit being constructed by Greenland Apartments Limited Partnership, at Barker-Cypress and Greenland Way. We oppose this for the following reasons: lack of adequate public transportation, lack of access to medical facilities, lack of job opportunities within walking distance, as well as lack of adequate access to other resources for daily living.

Name	Address	Zip Code
1. LaDawn Weeks	18542 Meadows Way, Houston, TX	77084
2. Joseph D'Amico	18503 Meadows Way Houston, TX	77084
3. Karen Petersen	18506 Meadows Way Houston, TX	77084
4. Dana Rivas	18547 Meadows Way Houston, TX	77084
5. Don A. Fuschman	18531 Meadows Way Houston, TX	77084
6. JAN V. DURA	18530 MEADOWS WAY HOUSTON, TX	77084
7. DARLENE HUBENAK	18539 MEADOWS WAY HOUSTON, TX	77084
8. LEE GUNDLACH	18518 Glen Wood Lane Houston, TX	77084
9. Allison Hardman	18550 Meadows Way Houston, TX	77084
10. JONATHAN HARDMAN	18550 MEADOWS WAY HOUSTON, TX	77084
11. Sharon Fry	18563 Meadows Way Houston, TX	77084
12. Mike Fry	18563 Meadows Way Houston, TX	77084
13. Harry C. Ellis	18562 Meadows Way Houston, TX	77084
14. Mary Ellis	18562 Meadows Way Houston, TX	77084
15. Chad Calvin	18558 Meadows Way Houston, TX	77084
16. Angelique Calvin	18558 Meadows Way Houston, TX	77084
17. Erin Mellow	18555 Meadows Way Houston, TX	77084
18. Nancy Haselbach	18519 MEADOWS WAY HOUSTON, TX	77084
19. Paula Haselbach	18519 MEADOWS WAY HOUSTON, TX	77084
20. Ina Ann	18515 Meadow Way Houston	77084
21. Vickie Marsano	18510 Meadows Way Houston	77084
22. Kay Clinton	18526 Meadows Way Houston, TX	77084
23. Anthony Manning	18551 Meadows Way Houston, TX	77084
24. Elva Brown	18551 GLEN BRIAR HOUSTON, TX	77084
25. Margaret Birleigold	18535 Glen Briar Houston, TX	77084
26. Gecozu Balak	18535 GLEN BRIAR HOUSTON, TX	77084
27. David Hannum	18562 TRAIL BEND LN HOUSTON, TX	77084
28. Steve Park	18554 MEADOWS WAY HOUSTON	77084
29. Janice W. Schaefer	3807 Wood Stone Walk	77084
30. Sheila Desinsky	18534 Meadows Way	77084

News

United States
Department
of Labor

Bureau of Labor Statistics

Dallas, TX 75202

Dallas/Kansas City Regional Office
Jerome Watters
Regional Economist
(214) 767-6970
<http://stats.bls.gov/ro6news.htm>

For Release:
November 17, 2000

RESULTS OF PAY SURVEY FOR THE HOUSTON-GALVESTON-BRAZORIA, TEXAS METROPOLITAN AREA

Workers in the Houston-Galveston-Brazoria, Texas metropolitan area averaged \$17.42 per hour during January 2000, according to a new survey released by the U.S. Department of Labor's Bureau of Labor Statistics (BLS). Regional Commissioner Bob Gaddie reported that white-collar workers averaged \$21.62 per hour and accounted for 56 percent of the workers studied. Blue-collar workers averaged \$13.13 per hour and represented 29 percent of the workers, while the remaining 15 percent worked in service occupations and earned \$9.53 per hour. (See table 1.)

The National Compensation Survey (NCS) presents straight-time earnings for all occupations in establishments with 50 or more employees in private industry and State and local governments. It excludes agricultural establishments, private households, the self-employed, and the Federal Government. The survey studied 358 firms representing 967,100 workers in the Houston-Galveston-Brazoria metropolitan area, which includes Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties. Approximately 77 percent of those represented worked in private industry. (See table 2.)

In the Houston-Galveston-Brazoria metropolitan area, average hourly wages were published for more than 130 detailed occupations. (See table 1.) Among white-collar workers, petroleum engineers averaged \$43.62 per hour, accountants and auditors \$25.22, registered nurses \$22.13, and secretaries \$14.64. Blue-collar occupations included mechanics and repairers supervisors earning \$23.44 per hour, machinists at \$18.50, truck drivers at \$11.86, and assemblers at \$8.17. In the service occupations, public service police and detectives averaged \$18.78 per hour, correctional institution officers \$11.90, nursing aides, orderlies and attendants \$8.93, and janitors and cleaners \$7.68.

National Compensation Survey, Houston-Galveston-Brazoria, TX, January 2000 (continued)

The NCS also provides broad coverage of selected occupational characteristics. (See table 3.) For example, full-time employees in the Houston area averaged \$18.17 per hour and part-timers earned \$8.03. Blue-collar workers in unionized jobs had average hourly wages of \$17.66, while their non-union counterparts earned \$12.09. Workers paid on a time basis (wages are solely based on an hourly rate or salary) averaged \$17.32 per hour, while incentive workers (wages are at least partially based on productivity payments) earned \$19.47. Average rates of pay are also available for levels of work within an occupation based on knowledge, skill, independent judgment, supervision received and other factors required on the job. The selected characteristics allow for comparison of occupations with similar requirements.

Data provided by the NCS may be used by businesses for establishing pay plans, making decisions concerning plant relocation, and in collective bargaining negotiations. Individuals may use such data to help choose potential careers. The NCS is part of a statistical program that will eventually integrate three separate surveys of wages and benefits into one comprehensive compensation program. The survey increases the amount of wage data available to businesses, employees, and the public, and reduces the time required of business establishments responding to BLS compensation surveys.

Complete survey results are contained in the National Compensation Survey, Houston-Galveston-Brazoria, TX, January 2000, (Bulletin number 3105-12). Copies of survey tables are available on the Internet in both text and PDF formats at <http://stats.bls.gov/compub.htm> and from the Bureau's fax-on-demand service by dialing 214-767-9613 and requesting documents 9530 and 9531. For further information or personal assistance contact the Dallas Regional Office at 214-767-6970. Bulletins may be purchased for \$11.00 from the BLS Publications Sales Center, 230 South Dearborn Street, 9th Floor, Chicago, IL 60604. Telephone orders using MasterCard or Visa credit cards are accepted at 312-353-1880 between 8:00 a.m. and 3:00 p.m. Central Time.

Katy Independent School District

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Employment

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- [Recruiting Schedule](#)
- [Substituting in KISD](#)
- [2002-03 Health Plan](#)

2002-03 Teacher Pay Schedule

Teacher | Non-Teacher | Substitute

(Board approved July 22, 2002)


Experience	Bachelor's	Master's	Doctorate
0	35,000	37,200	38,400
1	35,100	37,300	38,500
2	35,300	37,500	38,700
3	36,000	38,200	39,400
4	36,700	38,900	40,100
5	37,400	39,600	40,800
6	38,300	40,500	41,700
7	39,000	41,200	42,400
8	39,700	41,900	43,100
9	40,400	42,600	43,800
10	41,000	43,200	44,400
11	41,900	44,100	45,300
12	42,600	44,800	46,000
13	43,200	45,400	46,600
14	43,800	46,000	47,200
15	44,400	46,600	47,800
16	45,100	47,300	48,500
17	45,700	47,900	49,100
18	46,300	48,500	49,700
19	46,800	49,000	50,200
20	47,500	49,700	50,900
21	48,200	50,400	51,600
22	48,800	51,000	52,200
23	49,400	51,600	52,800
24	50,000	52,200	53,400
25	50,600	52,800	54,000
26	51,300	53,500	54,700

27	52,000	54,200	55,400
28	52,600	54,800	56,000
29	53,200	55,400	56,600
30	53,900	56,100	57,300
31	54,500	56,700	57,900
32	55,200	57,400	58,600
33	55,800	58,000	59,200
34	56,500	58,700	59,900
35	57,100	59,300	60,500
36	57,700	59,900	61,100
37	58,300	60,500	61,700
38	59,000	61,200	62,400
39	59,700	61,900	63,100
40	60,300	62,500	63,700

Last Updated: 9/23/01

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Employment

Application

Employee Handbook

Employee Benefits

Current Openings

Salary Schedule

Salary Schedule					
Years of Experience	State Base Daily Rate	State Base 1999-2000	Days Over 187	District Stipend	Total Salary
0	\$129.63	24,240.00	\$388.88	2,500.00	\$27,128.88
1	\$132.67	24,810.00	\$398.02	2,500.00	\$27,708.02
2	\$135.78	25,390.00	\$407.33	2,500.00	\$28,297.33
3	\$138.82	25,960.00	\$416.47	2,500.00	\$28,876.47
4	\$145.29	27,170.00	\$435.88	2,500.00	\$30,105.88
5	\$151.76	28,380.00	\$455.29	2,500.00	\$31,335.29
6	\$158.24	29,590.00	\$474.71	2,500.00	\$32,564.71
7	\$164.28	30,720.00	\$492.83	2,500.00	\$33,712.83
8	\$169.95	31,780.00	\$509.84	2,500.00	\$34,789.84
9	\$175.35	32,790.00	\$526.04	2,500.00	\$35,816.04
10	\$180.37	33,730.00	\$541.12	2,500.00	\$36,771.12
11	\$185.24	34,640.00	\$555.72	2,500.00	\$37,695.72
12	\$189.79	35,490.00	\$569.36	2,500.00	\$38,559.36
13	\$194.01	36,280.00	\$582.03	2,500.00	\$39,362.03
14	\$198.13	37,050.00	\$594.39	2,500.00	\$40,144.39
15	\$201.93	37,760.00	\$605.78	2,500.00	\$40,865.78
16	\$205.56	38,440.00	\$616.68	2,500.00	\$41,556.68
17	\$208.98	39,080.00	\$626.95	2,500.00	\$42,206.95
18	\$212.19	39,680.00	\$636.58	2,500.00	\$42,816.58
19	\$215.29	40,260.00	\$645.88	2,500.00	\$43,405.88
20	\$218.18	40,800.00	\$654.55	2,500.00	\$43,954.55



Welcome to Spring Branch ISD Human Resources

Spring Branch ISD Human Resources Department

Appraisals

Benefits

Employee Handbook

Policies/Procedures

Records/Payroll

Staff

TEACHER, NURSE, LIBRARIAN

BACHELOR'S DEGREE

2002 - 2003 Salary Comparison with 2.5% Across the Board Increase

2001/02			2002/03			
STEP	YEARS COMPLETED	ANNUAL SALARY	STEP	YEARS COMPLETED	ANNUAL SALARY	\$ INCR
			BASE	0	36,000	
BASE	0	35,000	1	1	36,050	1,050
1	1	35,100	2	2	36,100	1,000
2	2	35,350	3	3	36,234	884
3	3	36,350	4	4	37,259	909
4	4	36,550	5	5	37,464	914
5	5	36,950	6	6	37,874	924
6	6	37,850	7	7	38,796	946
7	7	38,750	8	8	39,719	969
8	8	39,750	9	9	40,744	994
9	9	40,650	10	10	41,666	1,016
10	10	41,650	11	11	42,691	1,041
11	11	42,650	12	12	43,716	1,066
12	12	43,650	13	13	44,741	1,091
13	13-16	44,650	14	14-17	45,766	1,116
14	17-19	45,650	15	18-20	46,791	1,141
15	20-21	46,650	16	21-22	47,816	1,166
16	22	47,650	17	23	48,841	1,191
17	23	48,650	18	24	49,866	1,216
18	24	49,650	19	25	50,891	1,241
19	25	50,650	20	26	51,916	1,266
20	26-27	51,650	21	27-28	52,941	1,291
21	28-29	52,650	22	29-30	53,966	1,316
22	30-31	53,650	23	31-32	54,991	1,341
23	32+	54,150	24	33+	55,504	1,354



Human Resources

CFISD School Board Improves Salaries and Stipends

[Salary Schedule]

Consistent with Long-Range Planning Goal 2A which addresses the District's attraction and retention of qualified employees, the Board of Trustees approved the 2002-2003 personnel compensation plan, inclusive of salaries and stipends. The increases approved have the potential of making the District even more competitive than in the past. Some of the increases are listed below:

Salaries

- Granted salary increases of 3% which resulted in salary increases of \$1232 for teachers and nurses.
- Set the beginning salary for teachers with bachelors degrees and no years of teaching experience at \$35,000 for 187 days.

Stipends

- Bilingual teacher stipends range from \$2,000 to \$3,500 based on certification status.
- Adaptive Behavior (AB) teacher stipends range from \$1,000 to \$2,000 based on certification status and experience.
- Stipends for Life Skills, PPCD and Resource/Co-teach teachers range from \$500 to \$1,000 based on certification status.
- Stipends for Diagnosticians range from \$3,000 to \$4,000 based on certification status.

Teacher Salary Schedule 2002-2003		
Earned Experience	10 Months 187 Days	Daily Rate
0	35,000	187.166
1	35,400	189.305
2	35,800	191.444
3	36,200	193.583
4	36,764	196.599
5	37,685	201.524

Table 1. Mean hourly earnings¹, all workers:² Selected occupations, private industry and State and local government, National Compensation Survey, Houston-Galveston-Brazoria, TX, January 2000

Occupation ³	Total		Private industry		State and local government	
	Mean	Relative error ⁴ (percent)	Mean	Relative error ⁴ (percent)	Mean	Relative error ⁴ (percent)
All	\$17.42	2.4	\$17.07	3.1	\$18.70	2.8
All excluding sales	17.51	2.5	17.15	3.2	18.73	2.8
White collar	21.62	2.5	21.69	3.1	21.39	3.1
White collar excluding sales	22.50	2.4	22.93	3.0	21.47	3.1
Professional specialty and technical	26.45	2.6	27.04	3.7	25.47	3.1
Professional specialty	27.83	2.3	28.85	3.3	26.53	2.9
Engineers, architects, and surveyors	32.07	4.4	32.07	4.4	-	-
Petroleum engineers	43.62	6.9	43.62	6.9	-	-
Chemical engineers	34.61	6.6	34.61	6.6	-	-
Civil engineers	35.96	10.0	35.96	10.0	-	-
Mechanical engineers	31.47	5.6	31.47	5.6	-	-
Engineers, n.e.c.	31.83	5.0	31.83	5.0	-	-
Mathematical and computer scientists	30.35	4.9	30.61	4.9	-	-
Computer systems analysts and scientists	30.54	5.1	30.82	5.0	-	-
Natural scientists	24.69	7.4	26.51	7.7	-	-
Geologists and geodesists	30.69	11.1	30.69	11.1	-	-
Health related	24.22	5.1	24.11	6.9	24.49	5.5
Registered nurses	22.13	2.4	21.62	2.4	23.19	4.8
Pharmacists	30.28	3.6	29.95	3.4	-	-
Respiratory therapists	17.80	3.4	17.80	3.4	-	-
Teachers, college and university	40.44	10.8	32.96	35.0	40.66	11.1
Other post-secondary teachers	51.11	13.1	-	-	-	-
Teachers, except college and university	26.27	1.7	18.23	6.0	26.66	1.7
Elementary school teachers	26.91	1.1	19.85	14.4	27.03	1.1
Secondary school teachers	26.57	1.5	-	-	26.66	1.5
Teachers, n.e.c.	24.41	6.5	15.72	10.0	26.73	4.5
Vocational and educational counselors	28.93	10.1	-	-	29.70	10.6
Librarians, archivists, and curators	20.86	16.3	-	-	21.05	18.2
Librarians	20.86	16.3	-	-	21.05	18.2
Social scientists and urban planners	-	-	-	-	-	-
Social, recreation, and religious workers	14.96	5.0	15.27	11.7	14.87	5.5
Social workers	14.77	4.7	-	-	14.87	5.5
Lawyers and judges	44.84	24.2	-	-	-	-
Lawyers	46.73	25.7	-	-	-	-
Writers, authors, entertainers, athletes, and professionals, n.e.c.	23.13	17.1	23.39	19.0	-	-
Designers	16.52	30.3	16.52	30.3	-	-
Professional, n.e.c.	30.66	20.4	-	-	-	-
Technical	21.50	8.7	22.70	9.7	15.34	10.9
Clinical laboratory technologists and technicians	14.09	11.1	14.09	11.1	-	-
Radiological technicians	21.73	19.7	-	-	-	-
Licensed practical nurses	14.01	2.1	14.05	2.5	-	-
Health technologists and technicians, n.e.c.	14.82	4.8	14.80	4.7	-	-
Electrical and electronic technicians	21.58	7.9	21.64	7.9	-	-
Engineering technicians, n.e.c.	19.01	9.9	19.66	13.0	-	-
Drafters	27.26	7.7	27.26	7.7	-	-
Chemical technicians	23.59	8.6	23.59	8.6	-	-
Airplane pilots and navigators	78.19	21.2	78.19	21.2	-	-
Technical and related, n.e.c.	14.93	12.1	-	-	-	-
Executive, administrative, and managerial	32.15	3.0	33.38	3.1	27.15	6.8
Executives, administrators, and managers	35.46	3.8	37.93	3.9	28.62	7.4
Administrators and officials, public administration	27.73	15.2	-	-	27.70	15.3
Financial managers	35.75	9.1	36.18	9.4	-	-
Purchasing managers	35.13	13.3	35.13	13.3	-	-
Managers, marketing, advertising, and public relations	41.66	8.2	41.66	8.2	-	-
Administrators, education and related fields	34.02	6.5	-	-	34.06	6.7
Managers, medicine and health	25.46	9.4	25.31	9.7	-	-
Managers, food servicing and lodging establishments	35.47	30.3	38.16	29.0	-	-
Managers and administrators, n.e.c.	37.76	5.3	39.75	4.8	-	-
Management related	26.55	3.8	27.21	3.9	19.74	10.5
Accountants and auditors	25.22	4.6	25.22	4.6	-	-

See footnotes at end of table.

Table 1. Mean hourly earnings¹, all workers:² Selected occupations, private industry and State and local government, National Compensation Survey, Houston-Galveston-Brazoria, TX, January 2000 — Continued

Occupation ³	Total		Private industry		State and local government	
	Mean	Relative error ⁴ (percent)	Mean	Relative error ⁴ (percent)	Mean	Relative error ⁴ (percent)
White collar —Continued						
Executive, administrative, and managerial —Continued						
Management related —Continued						
Other financial officers	\$31.99	9.8	\$31.99	9.8	—	—
Management analysts	29.16	5.4	29.16	5.4	—	—
Personnel, training, and labor relations specialists	24.79	14.8	27.49	16.4	—	—
Purchasing agents and buyers, n.e.c.	22.72	13.9	—	—	—	—
Management related, n.e.c.	25.35	6.7	25.40	7.2	—	—
Sales	16.30	9.1	16.36	9.1	—	—
Supervisors, sales	21.42	9.8	21.42	9.8	—	—
Securities and financial services sales	17.36	24.5	17.36	24.5	—	—
Sales, other business services	22.19	16.6	22.19	16.6	—	—
Sales representatives, mining, manufacturing, and wholesale	24.47	11.9	24.47	11.9	—	—
Sales workers, motor vehicles and boats	19.29	16.4	19.29	16.4	—	—
Sales workers, furniture and home furnishings	21.81	2.2	21.81	2.2	—	—
Sales workers, parts	18.05	8.8	18.05	8.8	—	—
Sales workers, other commodities	8.34	6.6	8.34	6.6	—	—
Sales counter clerks	9.36	6.6	9.36	6.6	—	—
Cashiers	6.90	3.0	6.83	3.1	—	—
Sales support, n.e.c.	12.97	12.4	12.97	12.4	—	—
Administrative support, including clerical	12.55	1.8	12.93	2.1	\$11.36	2.3
Supervisors, general office	15.74	5.1	16.14	6.4	—	—
Supervisors, distribution, scheduling, and adjusting clerks	18.25	8.9	18.25	8.9	—	—
Computer operators	15.14	10.1	15.14	10.1	—	—
Secretaries	14.64	2.8	15.74	2.9	12.15	3.9
Interviewers	11.68	13.5	—	—	—	—
Transportation ticket and reservation agents	12.62	16.9	12.62	16.9	—	—
Receptionists	9.88	5.3	9.70	5.5	—	—
Information clerks, n.e.c.	11.71	11.3	11.72	12.8	—	—
Order clerks	13.10	9.3	13.10	9.3	—	—
Personnel clerks, except payroll and timekeeping	11.79	8.3	11.79	8.3	—	—
Library clerks	9.51	7.2	—	—	9.47	7.9
File clerks	10.38	5.9	10.46	6.1	—	—
Records clerks, n.e.c.	11.79	5.0	11.97	7.6	11.63	6.4
Bookkeepers, accounting and auditing clerks	12.05	3.2	12.05	3.4	—	—
Billing clerks	13.15	7.1	—	—	—	—
Dispatchers	12.52	15.9	—	—	—	—
Production coordinators	15.77	5.9	16.24	5.5	—	—
Traffic, shipping and receiving clerks	10.15	6.1	9.80	5.2	—	—
Stock and inventory clerks	9.90	7.6	10.28	8.5	—	—
Material recording, scheduling, and distribution clerks, n.e.c.	14.38	8.1	—	—	—	—
Insurance adjusters, examiners, and investigators	13.98	5.5	13.98	5.5	—	—
Investigators and adjusters, except insurance	14.17	6.6	14.26	6.8	—	—
General office clerks	11.48	3.6	12.20	4.9	10.52	3.6
Data entry keyers	9.74	5.2	9.74	5.2	—	—
Teachers' aides	10.49	2.0	—	—	10.49	2.0
Administrative support, n.e.c.	12.87	3.9	13.16	5.1	12.24	5.4
Blue collar	13.13	3.4	13.14	3.7	12.97	3.7
Precision production, craft, and repair	17.57	3.1	17.78	3.2	14.82	6.0
Supervisors, mechanics and repairers	23.44	8.7	24.87	8.9	—	—
Automobile mechanics	19.26	10.4	19.46	10.6	—	—
Bus, truck, and stationary engine mechanics	15.43	7.3	15.16	8.6	—	—
Industrial machinery repairers	15.49	6.4	15.60	6.6	—	—
Mechanics and repairers, n.e.c.	16.83	7.7	16.97	8.8	—	—
Supervisors, construction trades, n.e.c.	17.43	3.2	17.33	3.4	—	—

See footnotes at end of table.

Table 1. Mean hourly earnings¹, all workers:² Selected occupations, private industry and State and local government, National Compensation Survey, Houston-Galveston-Brazoria, TX, January 2000 — Continued

Occupation ³	Total		Private industry		State and local government	
	Mean	Relative error ⁴ (percent)	Mean	Relative error ⁴ (percent)	Mean	Relative error ⁴ (percent)
Blue collar—Continued						
Precision production, craft, and repair—Continued						
Carpenters	\$17.01	7.0	\$17.01	7.0	-	-
Electricians	19.22	3.3	19.66	3.3	-	-
Plumbers, pipefitters and steamfitters	17.15	10.4	17.29	10.8	-	-
Insulation workers	12.27	9.6	12.27	9.6	-	-
Construction trades, n.e.c.	9.49	10.1	9.21	10.0	-	-
Supervisors, production	23.03	9.2	24.82	7.5	-	-
Machinists	18.50	4.4	18.50	4.4	-	-
Butchers and meat cutters	11.74	9.5	11.74	9.5	-	-
Inspectors, testers, and graders	20.79	14.6	20.79	14.6	-	-
Miscellaneous plant and system operators, n.e.c.	23.23	1.3	23.23	1.3	-	-
Machine operators, assemblers, and inspectors	11.23	5.9	11.23	5.9	-	-
Printing press operators	12.99	8.0	12.99	8.0	-	-
Laundering and dry cleaning machine operators	7.68	3.3	7.68	3.3	-	-
Miscellaneous machine operators, n.e.c.	12.92	10.7	12.92	10.7	-	-
Welders and cutters	12.57	6.1	12.57	6.1	-	-
Assemblers	8.17	11.6	8.17	11.6	-	-
Production inspectors, checkers and examiners	12.71	9.6	12.70	9.8	-	-
Transportation and material moving	12.69	5.3	12.67	6.0	\$12.86	4.9
Truck drivers	11.88	7.3	11.93	7.5	-	-
Bus drivers	14.00	8.4	-	-	12.58	3.2
Industrial truck and tractor equipment operators ..	9.86	4.6	9.86	4.6	-	-
Miscellaneous material moving equipment operators, n.e.c.	15.51	12.9	15.81	12.9	-	-
Handlers, equipment cleaners, helpers, and laborers	8.51	4.0	8.36	4.2	10.39	4.6
Groundskeepers and gardeners, except farm	9.74	5.8	-	-	10.43	6.4
Helpers, mechanics and repairers	10.14	6.4	10.16	7.7	-	-
Helpers, construction trades	10.30	4.6	9.70	5.1	-	-
Construction laborers	8.63	10.0	8.53	10.4	-	-
Production helpers	10.32	11.5	10.32	11.5	-	-
Stock handlers and baggers	7.64	5.2	7.64	5.2	-	-
Freight, stock, and material handlers, n.e.c.	8.56	13.1	8.56	13.1	-	-
Garage and service station related	8.87	3.1	8.87	3.1	-	-
Vehicle washers and equipment cleaners	8.52	6.8	8.35	9.1	-	-
Hand packers and packagers	7.15	4.8	7.15	4.8	-	-
Laborers, except construction, n.e.c.	8.40	10.4	8.24	11.3	10.10	12.2
Service	9.53	3.8	7.54	3.9	13.11	4.5
Protective service	14.90	6.0	-	-	16.59	3.9
Firefighting	17.88	3.5	-	-	17.30	3.5
Police and detectives, public service	16.78	4.3	-	-	16.78	4.3
Sheriffs, bailiffs, and other law enforcement officers	18.53	3.2	-	-	18.53	3.2
Correctional institution officers	11.90	2.9	-	-	11.90	2.9
Food service	6.61	5.4	6.55	6.1	8.90	3.6
Waiters, waitresses, and bartenders	4.42	18.9	4.42	18.9	-	-
Waiters and waitresses	4.06	23.4	4.06	23.4	-	-
Waiters/Waitresses' assistants	6.09	16.2	6.09	16.2	-	-
Other food service	7.82	4.0	7.82	4.8	8.90	3.6
Supervisors, food preparation and service	13.92	7.5	13.92	7.5	-	-
Cooks	6.19	5.2	6.26	5.4	-	-
Kitchen workers, food preparation	6.85	3.5	6.72	3.1	-	-
Food preparation, n.e.c.	7.19	5.4	6.28	4.6	9.01	3.4
Health service	9.51	2.4	8.53	3.1	10.98	4.4
Health aides, except nursing	10.31	5.6	-	-	11.29	7.2
Nursing aides, orderlies and attendants	8.93	3.2	8.29	4.2	10.53	5.4
Cleaning and building service	7.66	4.3	7.02	5.4	9.24	5.6
Maids and housemen	6.25	2.0	6.24	2.1	-	-
Janitors and cleaners	7.68	4.7	6.69	5.4	9.30	5.7

See footnotes at end of table.

Table 1. Mean hourly earnings¹, all workers:² Selected occupations, private industry and State and local government, National Compensation Survey, Houston-Galveston-Brazoria, TX, January 2000 — Continued

Occupation ³	Total		Private industry		State and local government	
	Mean	Relative error ⁴ (percent)	Mean	Relative error ⁴ (percent)	Mean	Relative error ⁴ (percent)
Service—Continued						
Personal service	\$11.12	11.7	\$11.75	14.8	\$9.35	4.6
Early childhood teachers' assistants	8.95	3.5	—	—	8.73	4.1
Service, n.e.c.	7.27	9.8	—	—	—	—

¹ Earnings are the straight-time hourly wages or salaries paid to employees. They include incentive pay, cost-of-living adjustments, and hazard pay. Excluded are premium pay for overtime, vacations, holidays, nonproduction bonuses, and tips. The mean is computed by totaling the pay of all workers and dividing by the number of workers, weighted by hours.

² All workers include full-time and part-time workers.

³ A classification system including about 480 individual occupations is used to cover all workers in the civilian economy. See appendix B for more information.

⁴ The relative standard error (RSE) is the standard error expressed as a percent of the estimate. It can be used to calculate a "confidence interval" around

a sample estimate. For more information about RSEs, see appendix A.

NOTE: Dashes indicate that no data were reported or that data did not meet publication criteria, and n.e.c. means not elsewhere classified. Overall occupational groups may include data for categories not shown separately. IN THIS SURVEY, THE NONRESPONSE RATE FOR PRIVATE INDUSTRY EXCEEDED REGULAR SURVEY STANDARDS FOR PUBLICATION. ACCORDINGLY, USERS SHOULD INTERPRET THESE RESULTS WITH THIS LIMITATION IN MIND.

Table 2. Number of workers¹ represented by the survey, by occupational group,² National Compensation Survey, Houston-Galveston-Brazoria, TX, January 2000

Occupational group	Full-time and part-time workers		
	Total	Private industry	State and local government
All occupations	967,100	746,600	220,500
All excluding sales	688,400	668,500	219,800
White collar	544,600	390,300	154,300
White-collar excluding sales	465,800	312,200	153,800
Professional specialty and technical	219,100	124,800	94,300
Professional specialty	174,300	86,600	87,700
Technical	44,800	38,200	6,700
Executive, administrative, and managerial	81,400	64,400	17,000
Sales	76,700	78,100	—
Administrative support, including clerical	165,400	123,000	42,300
Blue collar	275,600	256,300	19,500
Precision production, craft, and repair	100,100	92,900	7,200
Machine operators, assemblers, and inspectors	56,300	56,200	—
Transportation and material moving	43,200	38,000	7,200
Handlers, equipment cleaners, helpers, and laborers	76,300	71,300	5,000
Service	148,700	99,900	48,700

¹ The number of workers represented by the survey are rounded to the nearest 100. Estimates of the number of workers provide a description of size and composition of the labor force included in the survey. Estimates are not intended, however, for comparison to other statistical series to measure employment trends or levels. Both full-time and part-time workers were included in the survey.

² A classification system including about 480 individual occupations is used to cover all workers in the civilian economy.

See appendix B for more information.

NOTE: Dashes indicate that no data were reported or that data did not meet publication criteria. IN THIS SURVEY, THE NONRESPONSE RATE FOR PRIVATE INDUSTRY EXCEEDED REGULAR SURVEY STANDARDS FOR PUBLICATION. ACCORDINGLY, USERS SHOULD INTERPRET THESE RESULTS WITH THIS LIMITATION IN MIND.

Table 3. Selected worker characteristics: Mean hourly earnings¹ by occupational group,² National Compensation Survey, Houston-Galveston-Brazoria, TX, January 2000

Occupational group	Private industry and State and local government					
	Full-time workers ³	Part-time workers ³	Union ⁴	Nonunion ⁴	Time ⁵	Incentive ⁵
	Mean					
All occupations	\$18.17	\$8.03	\$19.79	\$17.22	\$17.32	\$19.47
All excluding sales	18.18	8.30	19.60	17.34	17.52	17.07
White collar	22.23	10.27	27.82	21.44	21.67	20.82
White-collar excluding sales	22.83	13.04	28.95	22.33	22.57	18.67
Professional specialty and technical	26.80	16.97	61.00	25.85	26.45	-
Professional specialty	28.17	18.09	-	27.83	27.83	-
Technical	21.84	13.79	61.00	18.18	21.50	-
Executive, administrative, and managerial	32.15	-	-	32.15	32.06	35.41
Sales	18.11	6.72	23.79	15.98	13.93	21.55
Administrative support, including clerical	12.71	9.59	15.10	12.42	12.59	11.43
Blue collar	13.52	7.26	17.66	12.09	12.99	16.35
Precision production, craft, and repair	17.81	-	20.48	16.58	17.39	20.77
Machine operators, assemblers, and inspectors	11.26	-	17.36	10.39	11.23	-
Transportation and material moving	13.17	7.81	15.23	11.76	12.67	-
Handlers, equipment cleaners, helpers, and laborers	8.87	8.27	11.23	8.22	8.51	-
Service	10.36	6.16	18.74	9.27	9.53	-
	Relative error ⁶ (percent)					
All occupations	2.5	4.1	6.8	2.6	2.5	12.2
All excluding sales	2.5	4.9	6.6	2.6	2.5	14.3
White collar	2.4	5.3	20.5	2.4	2.4	14.2
White-collar excluding sales	2.4	7.2	25.5	2.3	2.4	21.9
Professional specialty and technical	2.6	8.8	24.8	2.4	2.6	-
Professional specialty	2.3	10.8	-	2.3	2.3	-
Technical	8.8	9.8	24.8	4.6	8.7	-
Executive, administrative, and managerial	3.0	-	-	3.0	3.0	11.4
Sales	9.2	3.5	35.8	8.9	7.2	16.3
Administrative support, including clerical	1.8	3.9	7.8	1.6	1.8	6.2
Blue collar	3.6	5.8	4.2	3.7	3.5	14.2
Precision production, craft, and repair	3.0	-	4.0	3.6	3.1	7.5
Machine operators, assemblers, and inspectors	5.9	-	4.4	5.9	5.9	-
Transportation and material moving	4.9	16.0	8.7	6.4	5.8	-
Handlers, equipment cleaners, helpers, and laborers	4.6	3.8	9.4	4.2	4.0	-
Service	4.0	4.8	10.6	3.8	3.8	-

¹ Earnings are the straight-time hourly wages or salaries paid to employees. They include incentive pay, cost-of-living adjustments, and hazard pay. Excluded are premium pay for overtime, vacations, holidays, nonproduction bonuses, and tips. The mean is computed by totaling the pay of all workers and dividing by the number of workers, weighted by hours.

² A classification system including about 460 individual occupations is used to cover all workers in the civilian economy. See appendix B for more information.

³ Employees are classified as working either a full-time or a part-time schedule based on the definition used by each establishment. Therefore, a worker with a 35-hour-per-week schedule might be considered a full-time employee in one establishment, but classified as part-time in another firm, where a 40-hour week is the minimum full-time schedule.

⁴ Union workers are those whose wages are determined through collective bargaining.

⁵ Time workers' wages are based solely on an hourly rate or salary; incentive workers are those whose wages are at least partially based on productivity payments such as piece rates, commissions, and production bonuses.

⁶ The relative standard error (RSE) is the standard error expressed as a percent of the estimate. It can be used to calculate a "confidence interval" around a sample estimate. For more information about RSEs, see appendix A.

NOTE: Dashes indicate that no data were reported or that data did not meet publication criteria. IN THIS SURVEY, THE NONRESPONSE RATE FOR PRIVATE INDUSTRY EXCEEDED REGULAR SURVEY STANDARDS FOR PUBLICATION. ACCORDINGLY, USERS SHOULD INTERPRET THESE RESULTS WITH THIS LIMITATION IN MIND.



October 2, 2002

Public Meeting Re: Greenland Way Apartment/Townhomes
Schmalz Elementary

Attached are Crime Statistics from HPD's website. The City only comes to around Barker Cypress near the soccer fields. Their closest "beat" is near many of us but only includes a few of us. I have also attached the statistics from another beat in the Dairy Ashford/Briar Forest area. This area has many apartments and homes. Also attached, is the Memorial area with many homes and few apartments.

HPD's Premise codes (type of offense) are also attached.

This is only a small sample of HPD's statistics. Analyze the information for yourself; go to their website www.ci.houston.tx.us/departement/police/divisions.htm for more detail.

The information supports what I already knew; I do not want apartments of any kind here! Let alone apartments with any mention of Government assistance.

Many of us have lived in apartments at one time or another. Many of our family and friends live in apartments. Of the apartments I have lived in, I can't recall any that were backing to homes or schools (or next door to them). Because of their location, I never felt alienated or left out.

I have noted on each statistic sheet what I believe to be a crime at an apartment complex. Some codes are not specific: Example: Driveway. Where this is the case, I have indicated it as an apartment if that address appears to be an apartment. At the bottom of each of the three beat reports, I have written the percentage of crimes from what appear to be apartment complexes.

Keep in mind I am not an HPD officer. I am trying to interpret the data to the best of my ability. If you come up with a different analysis, please share with me.

Key: 20A Apartment
18A Apartment Parking Lot
20D Driveway
20R Residence / House

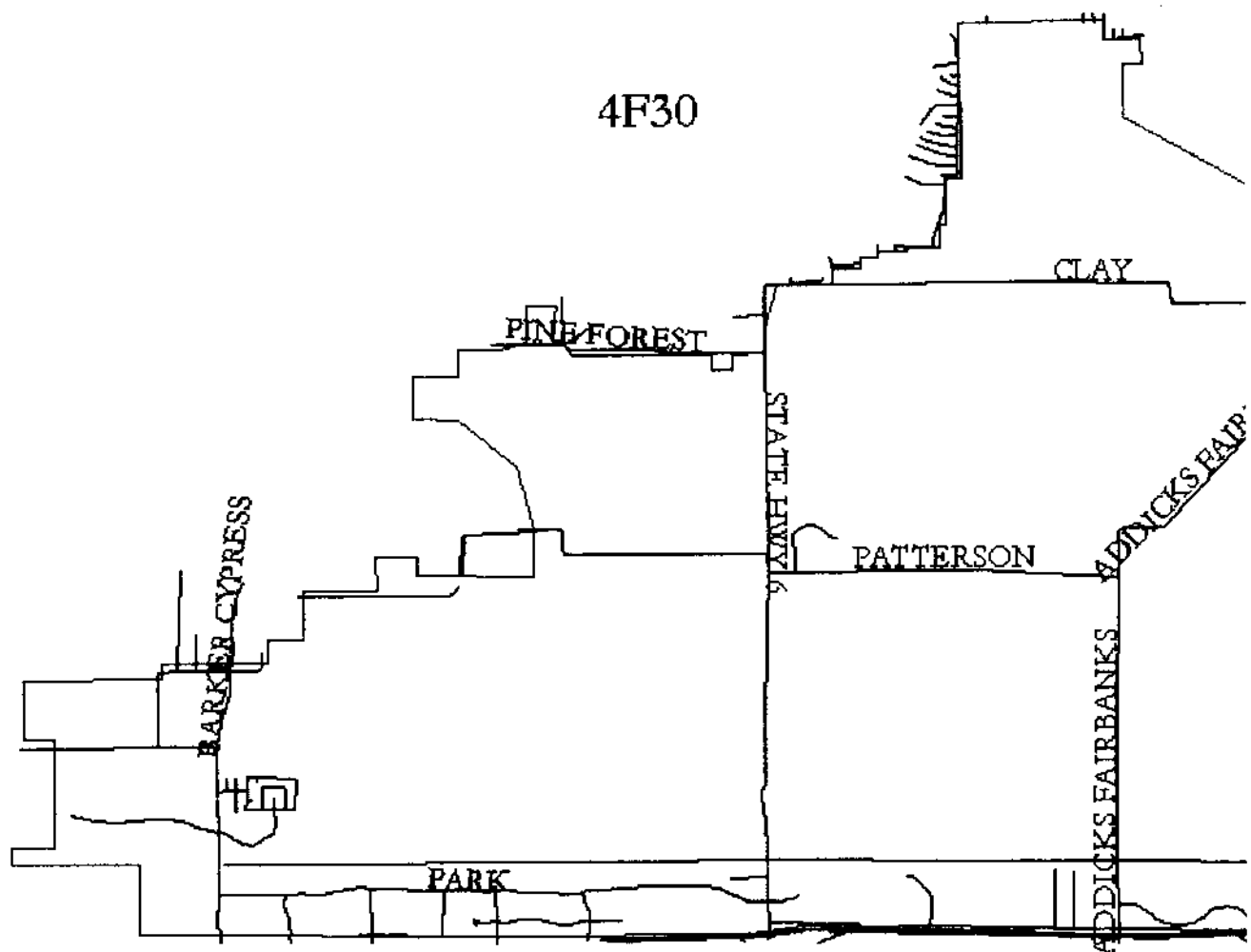
d. Diane Sanders

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Each Office Independently Owned and Operated

4F30



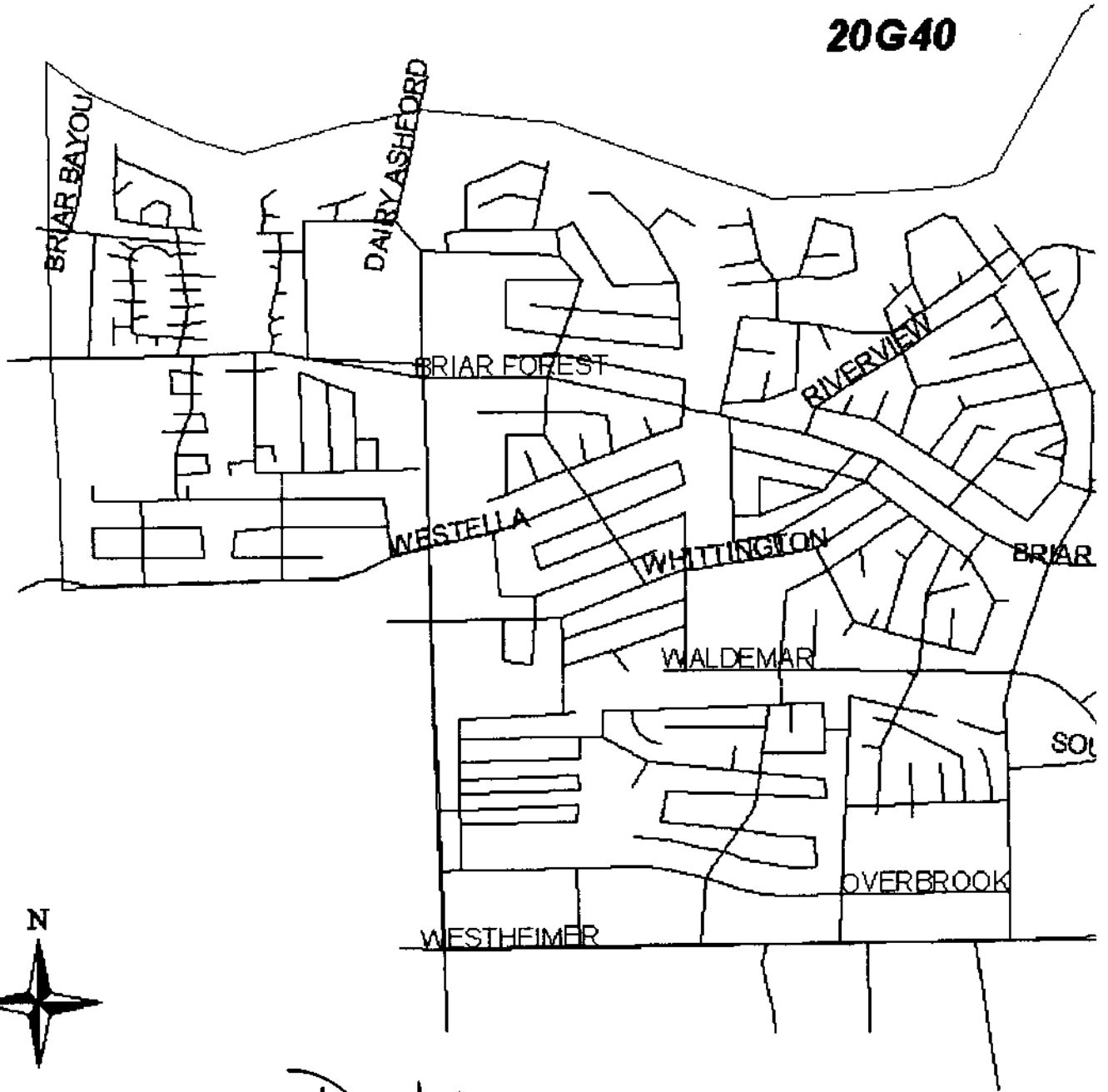
CS

8/5/02	0930	Rape	4F30	11R	3500	WAR MEMORIAL	DR
8/29/02	0100	Robbery	4F30	20A •	1900	UPLAND	
8/10/02	0500	Aggravated Assault	4F30	18A •	1500	SHERWOOD FOREST	
8/24/02	2000	Aggravated Assault	4F30	20A •	1500	SHERWOOD FOREST	
8/28/02	2330	Aggravated Assault	4F30	20A •	1600	BARKER CYPRESS	
8/11/02	2254	Aggravated Assault	4F30	20A •	1800	BARKER CYPRESS	
8/31/02	2246	Aggravated Assault	4F30	20A •	1900	UPLAND	
8/2/02	2100	Burglary	4F30	20A •	1500	SHERWOOD FOREST	
8/3/02	0400	Burglary	4F30	20A •	1700	UPLAND	
8/3/02	0115	Burglary	4F30	20A •	1700	UPLAND	
8/19/02	1118	Burglary	4F30	20A •	1700	UPLAND	
8/27/02	0115	Burglary	4F30	070	1800	BARKER CYPRESS	
8/19/02	1000	Burglary	4F30	20C	11400	OLD KATY	RD
8/20/02	1910	Burglary	4F30	250	11700	OLD KATY	RD
8/13/02	1700	Burglary	4F30	050	16300	PARK TEN PLACE	
8/16/02	1900	Burglary	4F30	050	16300	PARK ROW	
8/11/02	0100	Burglary of a Motor Vehicle	4F30	18A •	600	DAIRY ASHFORD	
8/27/02	2230	Burglary of a Motor Vehicle	4F30	18A •	1800	BARKER CYPRESS	
8/27/02	2200	Burglary of a Motor Vehicle	4F30	18A •	1800	BARKER CYPRESS	
8/4/02	0930	Burglary of a Motor Vehicle	4F30	180	10700	WESTVIEW	
8/31/02	1730	Burglary of a Motor Vehicle	4F30	18P	12100	WICKCHESTER	LN
8/2/02	0700	Burglary of a Motor Vehicle	4F30	18M	14700	PARK ROW	
8/4/02	1100	Burglary of a Motor Vehicle	4F30	18A •	15200	PARK ROW	
8/27/02	2215	Burglary of a Motor Vehicle	4F30	18M	15700	PARK TEN PLACE	
8/25/02	1530	Burglary of a Motor Vehicle	4F30	13R	16000	PATTERSON	RD
8/10/02	1300	Burglary of a Motor Vehicle	4F30	180	19000	SAUMS	
8/10/02	1300	Burglary of a Motor Vehicle	4F30	180	19000	SAUMS	
8/13/02	0000	Auto Theft	4F30	23S	600	DAIRY ASHFORD	
8/4/02	0215	Auto Theft	4F30	180	1000	HWY 6	

40% Apts.

8/13/02	1700	Auto Theft	4F30	05F	1600	BRITTMOORE	RD
8/9/02	0700	Auto Theft	4F30	18A	1700	UPLAND	
8/31/02	2030	Auto Theft	4F30	18N	1800	BARKER CYPRESS	
8/15/02	0400	Auto Theft	4F30	250	1900	WYCLIFFE	DR
8/17/02	1000	Auto Theft	4F30	18T	2300	HWY 6	
8/27/02	1800	Auto Theft	4F30	18G	10700	WESTVIEW	
4/30/02	1900	Auto Theft	4F30	05X	11800	OLD KATY	RD
4/30/02	1900	Auto Theft	4F30	05X	11800	OLD KATY	RD
8/9/02	2230	Auto Theft	4F30	18A	11900	WICKCHESTER	LN
8/5/02	0530	Auto Theft	4F30	01P	14200	OLD KATY	RD
8/8/02	1430	Auto Theft	4F30	18M	14700	PARK ROW	
8/18/02	2300	Auto Theft	4F30	18A	15200	PARK ROW	

20G40

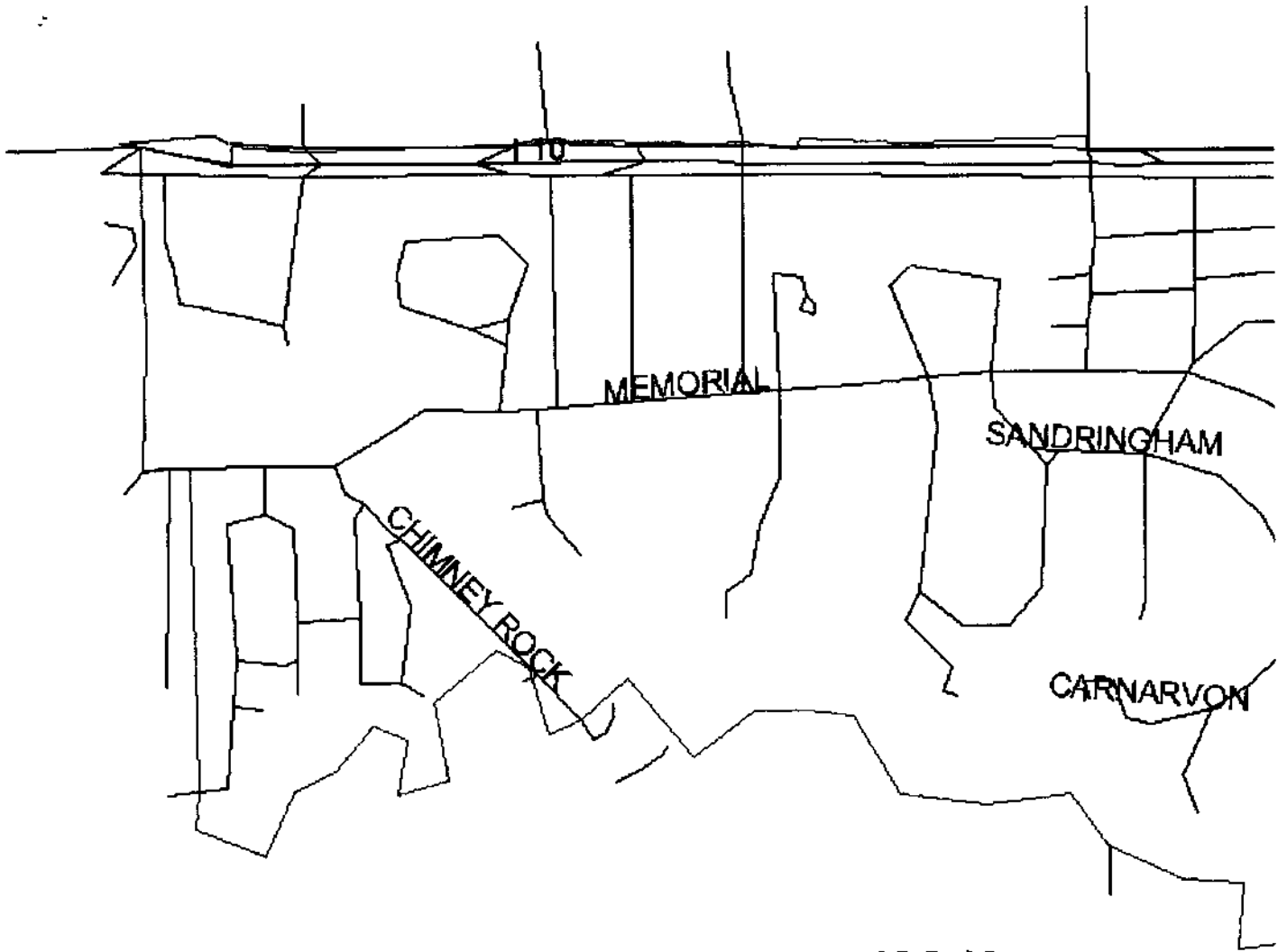


DK

8/16/02	0245	Rape	20G40	20A *	2400	GRAY FALLS	DR
8/2/02	1530	Robbery	20G40	20R	2200	WOODLAND SPRINGS	
8/10/02	2215	Robbery	20G40	18A *	11700	SOUTHLAKE	DR
8/30/02	0010	Robbery	20G40	210	12500	BRIAR FOREST	DR
8/2/02	1055	Aggravated Assault	20G40	070	1800	KIRKWOOD	
8/4/02	0115	Aggravated Assault	20G40	13R *	11200	OLYMPIA	
8/12/02	1515	Aggravated Assault	20G40	20A *	11200	OLYMPIA	
8/16/02	2300	Burglary	20G40	20G	1200	WILSTON	CT
8/30/02	0730	Burglary	20G40	20A *	1500	SANDY SPRING	RD
8/30/02	0730	Burglary	20G40	20C	1500	SANDY SPRING	RD
8/27/02	0000	Burglary	20G40	20G	1800	WESTBRANCH	DR
8/20/02	2200	Burglary	20G40	070	1800	KIRKWOOD	
8/10/02	2039	Burglary	20G40	05Z	1900	KIRKWOOD	
8/1/02	1730	Burglary	20G40	20A *	2100	HAYES	
8/8/02	1200	Burglary	20G40	20A *	2200	HAYES	
8/16/02	1630	Burglary	20G40	040	2200	DAIRY ASHFORD	
2/18/02	1800	Burglary	20G40	250	2300	DAIRY ASHFORD	
8/7/02	0900	Burglary	20G40	20A *	2300	HAYES	
8/16/02	2230	Burglary	20G40	20A *	2300	HAYES	
8/23/02	0530	Burglary	20G40	20A *	2300	CRESCENT PARK	DR
8/29/02	0545	Burglary	20G40	20R	2300	GRAY FALLS	DR
8/30/02	1315	Burglary	20G40	20A *	11200	LYNBROOK	
8/21/02	1330	Burglary	20G40	20A *	11600	BRIAR FOREST	DR
8/30/02	0015	Burglary of a Motor Vehicle	20G40	18A *	1400	DAIRY ASHFORD	
8/7/02	2300	Burglary of a Motor Vehicle	20G40	20D	1800	WESTBRANCH	DR
8/23/02	2300	Burglary of a Motor Vehicle	20G40	20D *	1600	AINSDALE	DR
8/27/02	0000	Burglary of a Motor Vehicle	20G40	20D	1600	WESTBRANCH	DR
7/26/02	0600	Burglary of a Motor Vehicle	20G40	18A *	2100	HAYES	
8/28/02	1800	Burglary of a Motor Vehicle	20G40	20D *	2100	HAYES	
8/1/02	1300	Burglary of a Motor Vehicle	20G40	18A *	2300	HAYES	
8/14/02	0120	Burglary of a Motor Vehicle	20G40	18A *	2300	HAYES	
8/25/02	1540	Burglary of a Motor Vehicle	20G40	18A *	2300	CRESCENT PARK	DR
8/25/02	0000	Burglary of a Motor Vehicle	20G40	18A *	2300	CRESCENT PARK	DR

5206
Apts.

8/7/02	2230	Burglary of a Motor Vehicle	20G40	18A *	2400	KIRKWOOD	
8/7/02	1645	Burglary of a Motor Vehicle	20G40	18D	11100	BRIAR FOREST	DR
8/2/02	0000	Burglary of a Motor Vehicle	20G40	20R	11300	CHEVY CHASE	
8/27/02	2100	Burglary of a Motor Vehicle	20G40	20D	11600	TRAILMONT	
8/28/02	1100	Burglary of a Motor Vehicle	20G40	18A *	11700	SOUTHLAKE	DR
8/6/02	2300	Burglary of a Motor Vehicle	20G40	18A *	12100	OVERBROOK	LN
8/15/02	2000	Burglary of a Motor Vehicle	20G40	20D	12600	WESTELLA	
8/23/02	1715	Burglary of a Motor Vehicle	20G40	20D	12700	WESTELLA	
8/26/02	2000	Burglary of a Motor Vehicle	20G40	20D	12700	WESTMERE	
8/11/02	2300	Auto Theft	20G40	20D *	1600	AINSDALE	DR
8/8/02	0700	Auto Theft	20G40	18O	1800	DAIRY ASHFORD	
8/19/02	1900	Auto Theft	20G40	18A *	2000	BENTWORTH	DR
8/9/02	0010	Auto Theft	20G40	18A *	2300	CRESCENT PARK	DR
8/29/02	1515	Auto Theft	20G40	18R	2400	KIRKWOOD	
8/10/02	1700	Auto Theft	20G40	13A	2500	HAYES	
8/24/02	0000	Auto Theft	20G40	18A *	11600	BRIAR FOREST	DR
8/23/02	1900	Auto Theft	20G40	18A *	12200	OVERBROOK	LN
8/11/02	2230	Auto Theft	20G40	18A *	12500	PIPING ROCK	
8/6/02	1000	Narcotic Drug Laws	20G40	13R	2700	KIRKWOOD	
1/20/02	0255	Driving While Intoxicated	20G40	13R	2000	DAIRY ASHFORD	
12/22/01	0035	Driving While Intoxicated	20G40	13R	11500	WICKERSHAM	LN
7/27/02	0250	Driving While Intoxicated	20G40	13R	12200	OVERBROOK	LN
1/26/02	2350	Driving While Intoxicated	20G40	13R	12600	BRIAR FOREST	DR



18G10



Men

8/6/02	0135	Robbery	18G10	18R	8100	KATY	FWY
8/3/02	2330	Robbery	18G10	13R	9900	MEMORIAL	DR
8/27/02	0105	Aggravated Assault	18G10	18A •	700	INTERNATIONAL	BLVD
8/7/02	0230	Aggravated Assault	18G10	18M	8000	KATY	FWY
8/12/02	2330	Burglary	18G10	05B	800	ANTOINE	
8/4/02	1400	Burglary	18G10	250	7700	KATY	FWY
8/2/02	1900	Burglary	18G10	250	8200	KATY	FWY
8/21/02	1830	Burglary of a Motor Vehicle	18G10	18A •	700	INTERNATIONAL	BLVD
8/28/02	1200	Burglary of a Motor Vehicle	18G10	18M	7800	KATY	FWY
7/19/02	0000	Burglary of a Motor Vehicle	18G10	18O	7700	KATY	FWY
8/21/02	1205	Burglary of a Motor Vehicle	18G10	18M	7700	KATY	FWY
8/13/02	2300	Burglary of a Motor Vehicle	18G10	18M	7800	KATY	FWY
8/14/02	2000	Burglary of a Motor Vehicle	18G10	18O	9900	MEMORIAL	DR
8/4/02	2200	Auto Theft	18G10	20D /	600	PINEHAVEN	
8/26/02	1800	Auto Theft	18G10	18P	900	SILBER	
7/31/02	1800	Auto Theft	18G10	18M	7600	KATY	FWY
8/4/02	1730	Auto Theft	18G10	18O	7700	KATY	FWY
8/5/02	1000	Auto Theft	18G10	05X	7700	KATY	FWY
8/21/02	1600	Auto Theft	18G10	18O	7700	KATY	FWY
8/22/02	1000	Auto Theft	18G10	250	7700	KATY	FWY
8/3/02	1900	Auto Theft	18G10	13H	7900	KATY	FWY
8/10/02	1330	Auto Theft	18G10	18T	7900	KATY	FWY
8/30/02	2000	Auto Theft	18G10	13R	8200	KINGSBROOK	
8/8/02	2330	Narcotic Drug Laws	18G10	13R	10000	MEMORIAL	DR

8% Apts.

Understanding Your Rents in Tax-Exempt Mortgage Revenue Bond Housing

The Tax Exempt Bond program is an unusual low-income housing program in that there are no maximum rents. The owners are allowed to charge however much they want.

However, there are two reasons to hope that the rents in these apartments might sometimes be fairly low.

The first is that the government has some complicated rules about who is allowed to live in these apartments. Basically, the rules say that a lot of the apartments have to be occupied by low-income people. So the rents have to be low enough that low-income people can afford to live there.

The second is that many of these apartment developments also get funding through various other government programs. So even though the bond program doesn't specify a maximum rent, the apartments may have a maximum rent because of one of these other programs.

Nonetheless, most of these apartments have pretty high rents — about as high as rent in a normal apartment.

If you feel that these rents are too high, you might want to contact the people who represent you in the government .



Greenland Apartments Limited Partnership

10333 Richmond Avenue, Suite #400

Houston, Texas 77042

(713) 781-5775 / (713) 781-8988 Facsimile

October 23, 2002

Mr. Robert Onion
Director of Multifamily Finance
Texas Department of Housing & Community Affairs
507 Sabine, Suite #800
Austin, Texas 78701

VIA OVERNIGHT DELIVERY

Re: Negative Impact on Property Values Argument as proposed by
Neighborhood Opposition to Greenland Park Townhomes (Bond
Application #2002-012/LIHTC Application #02443)

Dear Mr. Onion:

As you are aware, certain communities in west Harris County near the proposed site for the Greenland Park Townhomes oppose development of this property. One of the primary reasons stated for their opposition is the assumption that single-family home property values in the area will be negatively impacted by this development because it is a "low-income" property.

The purpose of this letter is to provide factual information that conclusively rebuts their assumption. Other arguments raised by the neighborhood groups in opposition to the development will be addressed with additional correspondence prior to the November meetings.

Attached is a copy of a study titled Low Income Housing Tax Credit Housing Developments And Property Values conducted by researchers at The Center for Urban Land Economics Research at The University of Wisconsin in June 2002 (the "Wisconsin Study"). Also attached is data and a location map compiled from the Harris County Appraisal District on 105 single-family homes that surround one of our existing townhome developments, Highland Meadow Village, located in southeast Houston (the Highland Meadow Data").

The Wisconsin Study concludes that for the cities in Wisconsin covered by the study there is no evidence that tax credit developments have a negative impact on property values. The researchers report that their findings are consistent with results found in other studies and literature. They further report that in one of the cities studied

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Austin, Texas 78746
(512) 477-9900 Ext. 15 / (512) 328-9616 Facsimile

(Madison, Wisconsin), properties located near tax credit properties appreciate “more rapidly”. The results of the study further suggests that it is better to place tax credit developments in areas that lack concentration of poverty as there is evidence of a “negative – albeit small – impact on appreciation rates” in areas of concentrated poverty. The dataset used in the research consisted of the entire tax credit portfolio in Wisconsin and looked at property sales for the period 1991 to 2000.

Because a similar study for the Texas tax credit portfolio does not exist, we provide the Highland Meadow Data, which likewise shows no negative impact on property values as a result of a recently built affordable housing development. This data is pertinent because Highland Meadow Village is a similar product to that proposed for the Greenland site and is also a 60% of area median income restricted property.

The Highland Meadow Data indicates that between the years 1998 through 2002, the assessed value of 105 randomly selected homes increased an average 30.7%. The average 2002 assessed value for the dataset is just over \$99,000 with values ranging from \$59,800 to \$153,300. In the year that Highland Meadow Village was completed (2001), home values in the surrounding community increased an average of 8.2%. According to a study done by the *Houston Chronicle* published on April 6, 2002, the average home price in Houston increased 6.7% in 2001 indicating that the homes surveyed in the Highland Meadow area outperformed the overall Houston area market.

As shown on the attached map (a compilation of HCAD FACET maps), all of the 105 homes surveyed are within a couple of blocks of the property, including homes that border a property line with Highland Meadow Village. The Highland Meadow Data results are consistent with results in other neighborhoods surrounding our other Houston Developments.

Based on the above, the argument to deny development of affordable housing based on a perceived negative impact on surrounding property values is invalid and factually incorrect. This argument should not be considered as a basis for a denial of any project regardless of the number of individuals or neighborhood groups making such a false claim.

There are many factors that influence housing values. Generally, areas that are experiencing growth in both residential and commercial development mean that home values are increasing. Local economic conditions impacting jobs as well as overall housing supply/demand are the leading factors that impact home values.

Our development would serve to protect the neighborhood from non-residential uses on the site, which could prove detrimental to the marketability of the homes in their neighborhood. We want to see the neighborhoods in this area continue to increase in value. We certainly want our proposed property to do the same. We believe that this

Mr. Robert Onion
Greenland Park Townhomes
October 23, 2002
Page 3 of 3

development will increase the desirability and marketability of their neighborhoods (certainly not detract from them) and support the further appreciation of their homes.

Should you have any questions or need additional information, please contact me directly.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Brent Stewart". The signature is fluid and cursive, with the first name "R." and last name "Stewart" clearly visible.

R. Brent Stewart
Development Associate

Cc: Congressman John Culberson
Senator Jon Lindsay
Representative William Callegari
Jim Buie, Executive Director, Texas Bond Review Board
John Henneberger, Texas Low-Income Housing Information Service
Elizabeth Julian

TRAMMELL CROW RESIDENTIAL
Property Valuation Information/Analysis (MCAD)
for Single Family Homes Surrounding Highland Meadow Village
October 8, 2002

Street Address	Assessed Value per HCAD by Year					Percentage Increase from				
	1998	2000	2001	2002	1998/1999	1999/2000	2000/2001	2001/2002	1998/2002	1998/2002
11202 Brook Meadow	88,500	80,300	86,500	88,100	6.6%	10.0%	7.7%	1.8%	1.8%	28.6%
11207 Brook Meadow	72,200	83,700	88,600	91,300	5.4%	10.0%	7.0%	1.9%	1.9%	26.5%
11422 Brook Meadow	87,800	79,200	85,300	86,800	6.5%	10.0%	7.7%	1.8%	1.8%	28.4%
11442 Brook Meadow	70,100	75,900	78,500	80,900	1.3%	6.9%	4.7%	1.8%	1.8%	15.4%
11458 Brook Meadow	86,900	78,400	84,600	86,200	8.8%	10.0%	7.9%	1.9%	1.9%	28.8%
11475 Brook Meadow	83,800	76,200	82,300	83,600	6.1%	10.0%	8.0%	1.8%	1.8%	28.3%
11482 Brook Meadow	88,800	104,700	114,300	116,300	7.2%	10.0%	8.2%	1.7%	1.7%	31.0%
11491 Brook Meadow	83,800	74,300	80,800	82,000	6.3%	9.9%	8.5%	1.7%	1.7%	28.9%
11519 Brook Meadow	84,400	111,400	121,900	124,100	7.3%	10.0%	9.4%	1.8%	1.8%	31.5%
10910 Canarywood	119,200	100,800	110,800	119,200	2.9%	9.9%	9.9%	7.8%	7.8%	33.8%
10831 Canarywood	62,600	71,200	78,300	83,600	3.7%	8.9%	10.0%	8.8%	8.8%	33.8%
10938 Canarywood	78,500	87,000	83,700	86,600	-3.2%	20.7%	7.7%	6.3%	6.3%	26.9%
11508 Chickwood	83,700	71,200	78,300	83,700	2.7%	9.9%	10.0%	6.9%	6.9%	32.6%
11519 Chickwood	56,300	66,300	71,100	75,500	4.1%	13.1%	7.2%	6.2%	6.2%	34.1%
11531 Chickwood	65,200	87,600	81,700	87,400	3.7%	9.9%	10.0%	7.0%	7.0%	34.0%
11607 Chickwood	57,200	67,300	72,200	78,700	4.0%	13.1%	7.3%	6.2%	6.2%	34.1%
11514 Egglewood	56,100	66,300	70,500	75,100	3.9%	9.9%	10.0%	6.5%	6.5%	33.9%
11531 Egglewood	72,000	84,100	88,700	96,400	3.3%	13.0%	7.8%	6.3%	6.3%	33.9%
11538 Egglewood	51,900	61,200	66,400	69,600	4.2%	13.1%	8.9%	6.3%	6.3%	33.3%
11610 Egglewood	60,400	68,900	75,700	80,500	3.8%	9.9%	9.9%	6.3%	6.3%	33.3%
11611 Egglewood	56,900	61,300	65,900	69,700	1.4%	6.2%	7.0%	6.3%	6.3%	22.5%
11635 Egglewood	46,000	48,200	57,800	61,500	4.8%	13.1%	6.1%	6.4%	6.4%	33.7%
11642 Egglewood	86,100	82,000	103,100	109,600	-4.6%	22.6%	2.6%	6.3%	6.3%	27.3%
11510 Ganderwood	84,800	73,700	81,000	86,200	3.4%	10.0%	9.9%	6.4%	6.4%	33.0%
11534 Ganderwood	82,300	71,100	78,200	83,500	3.9%	9.9%	10.0%	6.8%	6.8%	34.0%
11402 Gullwood	117,300	104,800	113,000	117,300	13.9%	10.0%	8.0%	3.8%	3.8%	40.5%
11406 Gullwood	91,500	103,700	110,400	114,700	3.1%	10.0%	6.5%	3.9%	3.9%	25.4%
11411 Gullwood	100,000	112,200	121,800	128,200	2.0%	10.0%	8.4%	3.8%	3.8%	28.2%
11423 Gullwood	97,200	114,500	120,300	119,500	9.6%	7.5%	5.1%	-0.7%	-0.7%	22.9%
11442 Gullwood	125,900	106,300	114,200	125,900	11.7%	7.4%	6.1%	3.9%	3.9%	32.2%
11442 Gullwood	85,200	104,900	121,200	129,300	4.1%	10.0%	8.5%	3.6%	3.6%	29.0%
11447 Gullwood	104,900	109,200	130,300	136,300	4.1%	10.0%	8.5%	3.8%	3.8%	28.9%
11450 Gullwood	103,200	107,400	128,100	133,000	4.1%	10.0%	8.6%	3.8%	3.8%	42.7%
11451 Gullwood	103,400	119,000	142,200	147,600	15.1%	10.0%	8.6%	3.8%	3.8%	28.4%
11458 Gullwood	91,700	95,200	113,400	117,700	3.8%	10.0%	8.3%	3.8%	3.8%	28.4%
11459 Gullwood	114,300	119,000	142,200	147,600	4.1%	10.0%	8.6%	3.8%	3.8%	29.1%
11462 Gullwood	83,950	90,100	102,100	111,200	7.3%	13.3%	0.0%	8.9%	8.9%	32.5%
11474 Gullwood	124,800	88,900	107,700	118,100	4.6%	9.9%	9.8%	10.0%	10.0%	38.9%
11475 Gullwood	121,300	107,800	119,800	121,300	3.9%	10.0%	8.2%	3.9%	3.9%	28.5%
11507 Gullwood	71,000	60,700	66,700	71,000	4.2%	10.0%	9.9%	8.4%	8.4%	34.0%
11528 Gullwood	80,400	70,400	75,600	80,400	4.1%	13.2%	7.4%	6.3%	6.3%	34.0%
11539 Gullwood	75,900	64,700	66,700	73,300	4.1%	9.8%	3.1%	9.9%	9.9%	29.5%
11806 Gullwood	63,200	65,800	79,200	84,700	3.6%	9.9%	10.0%	6.9%	6.9%	34.0%
11823 Gullwood	69,300	53,900	65,200	69,300	4.5%	13.0%	7.1%	6.3%	6.3%	34.3%
11510 Highland Meadow	84,600	65,400	79,000	84,600	2.2%	9.9%	9.9%	7.1%	7.1%	32.2%
11519 Highland Meadow	79,400	60,500	68,300	79,400	4.0%	12.9%	9.4%	6.3%	6.3%	36.4%
11528 Highland Meadow	84,400	45,000	54,400	59,800	40.8%	10.0%	9.9%	8.9%	8.9%	86.9%
11543 Highland Meadow	75,800	59,600	71,200	75,800	12.9%	9.9%	8.7%	6.2%	6.2%	43.2%
11614 Highland Meadow	84,100	65,100	78,700	84,100	3.6%	10.0%	9.9%	8.9%	8.9%	33.7%
11631 Highland Meadow	80,500	60,100	68,800	75,400	9.8%	10.0%	9.9%	6.8%	6.8%	33.9%
11642 Highland Meadow	75,000	58,200	70,400	75,000	3.9%	10.0%	10.0%	6.5%	6.5%	33.9%
10907 Oilwood	65,300	57,500	61,400	65,300	4.7%	12.7%	6.8%	6.4%	6.4%	34.1%
10926 Oilwood	82,800	70,400	77,400	82,800	2.6%	10.0%	9.9%	7.0%	7.0%	32.7%
10927 Oilwood	75,100	101,400	108,100	110,200	19.0%	13.4%	4.6%	3.9%	3.9%	48.7%

TRAMMELL CROW RESIDENTIAL
Property Valuation Information/Analysis (HCAD)
for Single Family Homes Surrounding Highland Meadow Village
October 8, 2002

Street Address	Market Value per HCAD						Assessed Value per HCAD by Year						Percentage Increase from				
	1988	1989	2000	2001	2002	1998/1988	1989/1988	2000/2001	2001/2002	2002/2001	1988/2000	1989/2000	2000/2001	2001/2002	1988/2002		
10642 Olivewood	79,800	81,900	68,000	74,800	79,800	3.9%	1.6%	9.9%	10.0%	6.7%	13.3%	9.9%	10.0%	10.0%	33.9%		
10655 Olivewood	102,600	93,400	94,500	98,900	102,600	8.9%	1.6%	9.9%	9.9%	3.8%	13.3%	9.9%	4.9%	4.9%	25.0%		
10663 Olivewood	116,400	94,300	103,700	112,100	116,400	13.8%	13.8%	10.0%	8.1%	3.8%	10.0%	10.0%	8.1%	3.8%	40.4%		
10667 Olivewood	130,100	105,100	115,900	123,400	130,100	2.0%	2.0%	10.0%	6.4%	3.8%	10.0%	10.0%	6.4%	3.8%	26.3%		
11011 Olivewood	125,000	101,100	111,200	120,400	125,000	2.0%	-2.5%	10.0%	4.2%	2.8%	10.0%	10.0%	4.2%	2.8%	26.1%		
11015 Olivewood	104,900	89,000	97,900	102,000	104,900	1.9%	1.9%	10.0%	3.2%	8.7%	10.0%	10.0%	3.2%	8.7%	14.9%		
11023 Olivewood	110,300	88,400	96,300	101,470	110,300	1.9%	1.9%	10.0%	4.9%	3.9%	10.0%	10.0%	4.9%	3.9%	25.9%		
11031 Olivewood	118,100	93,800	108,400	113,700	118,100	0.0%	0.0%	10.0%	8.7%	3.9%	10.0%	10.0%	8.7%	3.9%	18.4%		
11035 Olivewood	120,400	101,700	110,500	115,900	120,400	3.4%	3.4%	10.0%	8.9%	6.7%	10.0%	10.0%	8.9%	6.7%	33.4%		
10910 Pigeonwood	88,000	69,000	75,800	83,400	88,000	3.3%	3.3%	10.0%	9.9%	6.4%	10.0%	10.0%	9.9%	6.4%	32.8%		
10915 Pigeonwood	85,100	66,200	72,800	80,900	85,100	3.5%	3.5%	10.0%	7.5%	6.3%	10.0%	10.0%	7.5%	6.3%	33.8%		
10931 Pigeonwood	88,300	66,300	77,300	83,100	88,300	-0.9%	-0.9%	10.0%	12.3%	11.1%	12.3%	10.0%	7.8%	7.1%	33.3%		
10950 Pigeonwood	88,800	66,800	74,100	79,900	88,800	10.0%	10.0%	10.0%	9.9%	3.7%	9.9%	10.0%	9.9%	7.1%	34.9%		
11403 Sage Creek	90,000	67,000	81,000	84,000	90,000	4.3%	4.3%	10.0%	4.3%	0.8%	9.9%	10.0%	4.3%	0.8%	24.9%		
11431 Sage Creek	115,500	92,500	106,100	107,000	115,500	13.9%	13.9%	10.0%	8.2%	3.8%	10.0%	10.0%	8.2%	3.8%	40.9%		
11479 Sage Creek	124,800	88,600	110,900	120,200	124,800	2.0%	2.0%	10.0%	2.1%	3.9%	10.0%	10.0%	2.1%	3.9%	28.1%		
11478 Sage Creek	120,200	95,300	106,800	115,700	120,200	2.1%	2.1%	10.0%	2.9%	0.0%	10.0%	10.0%	2.9%	0.0%	26.2%		
11495 Sage Creek	126,200	100,000	112,300	121,500	126,200	9.4%	9.4%	10.0%	2.8%	0.0%	10.0%	10.0%	2.8%	0.0%	23.7%		
11402 Sage Valley	111,100	98,200	108,000	111,100	111,100	9.4%	9.4%	10.0%	9.4%	1.8%	10.0%	10.0%	9.4%	1.8%	35.1%		
11411 Sage Valley	130,500	115,400	126,900	130,500	130,500	10.0%	10.0%	10.0%	33.5%	0.0%	10.0%	10.0%	33.5%	0.0%	33.5%		
11422 Sage Valley	114,800	93,500	102,800	113,000	114,800	0.0%	0.0%	10.0%	0.0%	0.0%	10.0%	10.0%	0.0%	0.0%	36.3%		
11506 Sage Valley	100,840	75,390	75,390	100,840	100,840	0.0%	0.0%	10.0%	36.3%	0.0%	10.0%	10.0%	36.3%	0.0%	36.3%		
11519 Sage Valley	96,750	71,000	71,000	96,750	96,750	0.0%	0.0%	10.0%	10.0%	0.0%	10.0%	10.0%	10.0%	0.0%	20.9%		
11530 Sage Valley	102,810	77,010	77,010	102,810	102,810	2.2%	2.2%	10.0%	4.3%	7.9%	10.0%	10.0%	4.3%	7.9%	26.4%		
11418 Sagecreek	128,900	104,200	114,600	119,500	128,900	3.6%	3.6%	10.0%	8.1%	3.9%	10.0%	10.0%	8.1%	3.9%	28.1%		
11494 Sagecreek	87,900	91,200	100,300	108,400	112,600	7.6%	7.6%	10.0%	9.9%	9.8%	10.0%	10.0%	9.9%	9.8%	42.7%		
10907 Sagedowne	95,200	71,900	78,900	86,700	95,200	7.4%	7.4%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	42.5%		
10914 Sagedowne	90,600	58,300	75,100	82,600	90,600	7.5%	7.5%	10.0%	9.9%	9.8%	10.0%	10.0%	9.9%	9.8%	42.5%		
11002 Sagedowne	97,500	73,500	80,800	88,800	97,500	6.3%	6.3%	10.0%	27.5%	0.0%	10.0%	10.0%	27.5%	0.0%	31.3%		
11018 Sagedowne	93,600	68,800	73,400	83,600	93,600	7.9%	7.9%	10.0%	9.9%	9.9%	10.0%	10.0%	9.9%	9.9%	42.9%		
11034 Sagedowne	65,700	70,700	77,700	85,400	93,900	3.7%	3.7%	10.0%	6.3%	6.3%	10.0%	10.0%	6.3%	6.3%	25.5%		
11118 Sagedowne	97,800	80,800	92,000	97,800	97,800	4.7%	4.7%	10.0%	8.5%	2.9%	10.0%	10.0%	8.5%	2.9%	28.7%		
11208 Sagedowne	84,300	65,500	75,400	81,900	84,300	23.0%	23.0%	10.0%	2.6%	0.0%	10.0%	10.0%	2.6%	0.0%	29.9%		
11230 Sagedowne	94,300	69,300	89,300	91,900	94,300	5.1%	5.1%	10.0%	9.1%	3.0%	10.0%	10.0%	9.1%	3.0%	29.9%		
11318 Sagedowne	88,800	71,700	78,800	86,000	88,800	8.6%	8.6%	10.0%	8.6%	1.8%	10.0%	10.0%	8.6%	1.8%	44.3%		
11202 Sagehill	100,800	74,800	82,200	90,400	96,400	7.5%	7.5%	10.0%	9.9%	9.9%	10.0%	10.0%	9.9%	9.9%	32.3%		
11219 Sagehill	100,200	75,500	83,000	84,500	82,800	7.7%	7.7%	10.0%	9.7%	1.8%	10.0%	10.0%	9.7%	1.8%	42.5%		
11226 Sagehill	85,200	64,400	70,800	77,700	85,200	7.4%	7.4%	10.0%	9.9%	9.7%	10.0%	10.0%	9.9%	9.7%	29.8%		
11307 Sagehill	80,500	66,700	73,300	80,500	80,500	7.4%	7.4%	10.0%	9.9%	9.8%	10.0%	10.0%	9.9%	9.8%	29.8%		
11310 Sagehill	94,300	75,700	83,200	91,500	94,300	9.2%	9.2%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	33.8%		
11327 Sagehill	67,000	72,000	79,200	87,100	95,600	0.0%	0.0%	10.0%	2.8%	0.0%	10.0%	10.0%	2.8%	0.0%	42.7%		
11431 Sagespark	112,300	96,300	109,200	112,300	112,300	9.2%	9.2%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	23.5%		
11603 Sagespark	101,990	73,650	73,650	81,000	89,100	0.0%	0.0%	10.0%	0.0%	0.0%	10.0%	10.0%	0.0%	0.0%	21.0%		
11519 Sagespark	96,570	78,270	78,270	89,000	94,900	0.0%	0.0%	10.0%	9.9%	9.9%	10.0%	10.0%	9.9%	9.9%	20.9%		
11418 Sagesperry	108,300	87,700	95,800	106,300	106,300	9.2%	9.2%	10.0%	2.8%	0.0%	10.0%	10.0%	2.8%	0.0%	23.5%		
11407 Sagesperry	127,000	98,400	108,200	119,000	127,000	0.0%	0.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	20.9%		
11506 Sagesperry	107,710	80,880	80,880	107,710	107,710	0.0%	0.0%	10.0%	0.0%	0.0%	10.0%	10.0%	0.0%	0.0%	29.1%		
11530 Sagesperry	93,320	69,910	69,910	76,900	84,500	0.0%	0.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	33.5%		
11539 Sagesperry	86,240	64,630	64,630	71,000	76,100	0.0%	0.0%	10.0%	9.9%	9.9%	10.0%	10.0%	9.9%	9.9%	20.8%		
10815 Sagerock	153,300	123,400	135,000	152,700	153,300	9.4%	9.4%	10.0%	2.8%	0.4%	10.0%	10.0%	2.8%	0.4%	24.2%		
10831 Sagerock	125,300	101,400	121,800	125,300	125,300	9.3%	9.3%	10.0%	9.9%	2.9%	10.0%	10.0%	9.9%	2.9%	23.6%		
	10,508,530	7,974,790	9,383,040	9,941,070	10,422,400	5.1%	5.1%	9.8%	8.2%	4.8%	9.8%	9.8%	8.2%	4.8%	30.7%		

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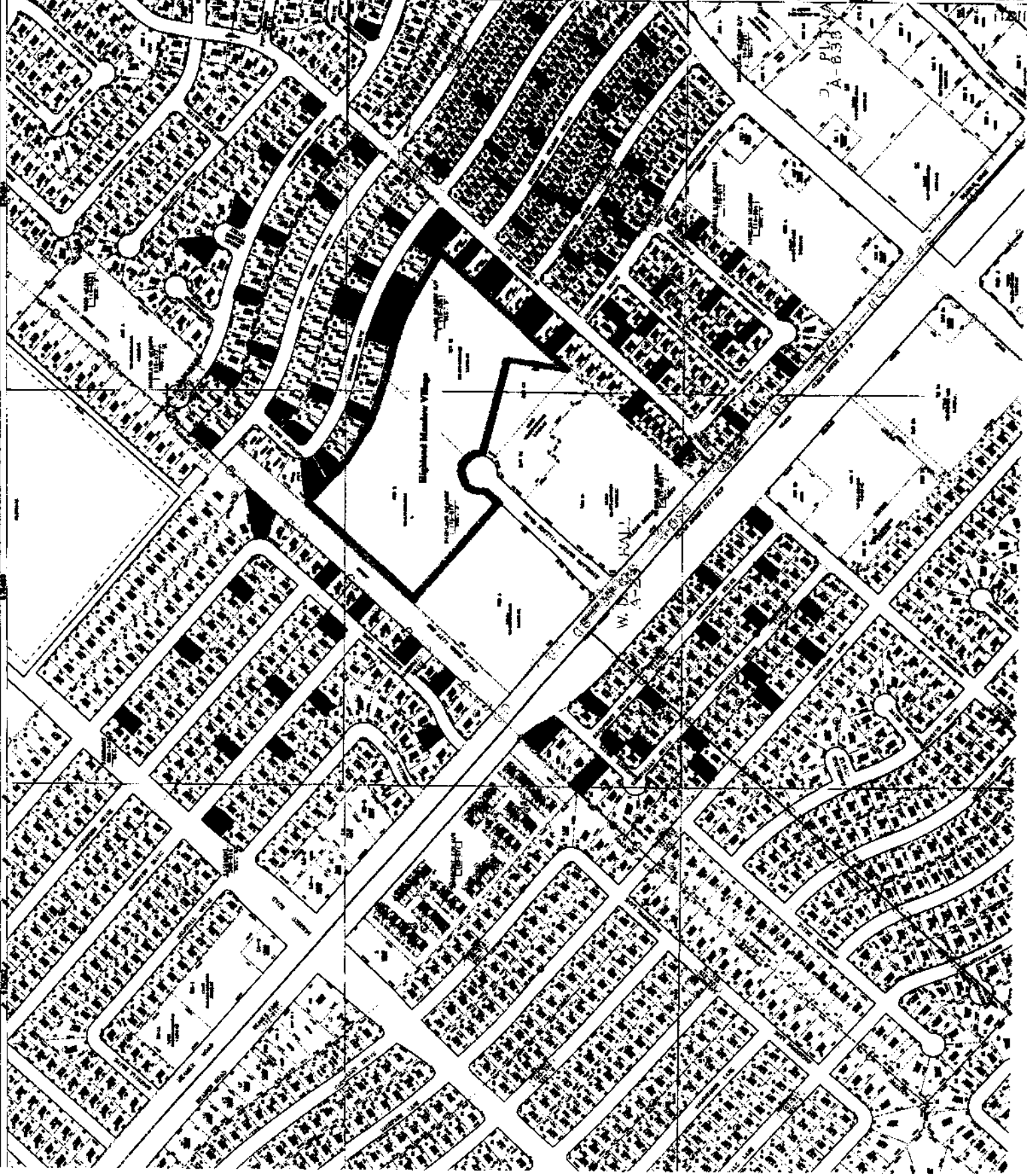
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**Low Income Housing Tax Credit Housing Developments
And Property Values**

By

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June 14, 2002

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Comments and criticisms are particularly welcome.

EXECUTIVE SUMMARY

- Few causes will mobilize American citizens, at least the 68 percent who own their homes, faster or more effectively than a perceived threat to the value of their property. It is common for at least some neighbors to object to low income housing developments, whether traditional public housing, or privately (for-profit or nonprofit) developed housing under the Section 42 Low Income Housing Tax Credit (LIHTC) program. This phenomenon is not limited to LIHTC developments, of course; for example, waste disposal facilities, power lines, community care facilities, and even churches are among nonresidential uses that at least some homeowners have objected to in recent times, giving rise to the well-known rallying cry, “Not In My Backyard.”
- The Low Income Housing Tax Credit was originated in conjunction with the Tax Reform Act of 1986 (TRA 86) to provide incentives for private sector production of low-to-moderate income housing. The credits provide a mechanism for funding a wide range of developments including new construction, substantial rehabilitation, moderate rehabilitation, acquisition, and repair by existing owners. Over the initial three years of the program, about \$6 billion worth of funding, aiding 300,000 units of low-to-moderate income housing, was made available. Program activity then increased, as the non-subsidized multifamily market declined. Lately tax credit units have comprised about 40-50 percent of total multifamily construction.
- Many papers have studied the localized effects of housing externalities, whether negative “bads” like environmental problems, traffic congestion, or nonconforming uses; or positive “goods” like high-performing schools or other amenities. The question before us is whether Section 42 developments actually create “bads” that translate into lower property values. A review of eight past studies on the issue of the effect of low-income housing on property values generally does not support the proposition that such housing diminished property values. Often it is the case that low-income housing developments cause surrounding property values to *increase*. Interestingly enough, past authors have generally found that such developments have a more positive impact in higher income areas. It seems to be the case that it is only when low-income housing developments are located in areas that already have concentrated poverty that they have a negative impact on property values.
- Our method for examining the influence of Section 42 developments on property values is to use repeat sales techniques. Specifically, we gather data on properties that have sold more than once in Madison and Milwaukee Metropolitan areas, and determine whether differences in appreciation can be explained by proximity to Section 42 developments.
- The repeat sales technique is a statistically correct manifestation of what appraisers call a “paired-sales” technique. Because each observation in a repeat sales data set follows the same house across time, it controls for many things, including things that are easy to measure, such as size and number of bathrooms, and things that are difficult to measure, including design and “curb appeal.” In our view, this leads the repeat sales setup to be superior to the alternative “hedonic” design. One deficiency with repeat sales is that it can only explain price changes, rather than price levels. But this is not an issue in our context, because we are examining how Section 42 development influence changes in house prices.
- We specified a number of mechanisms by which Section 42 developments might influence surrounding property values. We performed regressions that included linear, quadratic (i.e., squared) and gravity measures of distance to determine the influence of the developments on property values. We also ran regressions that included neighborhood controls, such as poverty rates, education levels, marriage rates, income levels, and age distribution of the population.

- Our data set on property values for Madison was based on every sale in the Multiple Listing Service of South Central Wisconsin database over the period 1991-2000. This gave us 3193 repeat sales observations to work with. We have also obtained the MetroMLS's database of property sales for the Metropolitan Milwaukee area (Waukesha, Washington, Ozaukee and Milwaukee Counties) and used that data to look at the impact of the developments in those areas. We were able to generate 2258 observations for Milwaukee County, 367 for Waukesha County, and 425 for Ozaukee County.
- Our dataset on the size and location of Section 42 developments was provided by the Wisconsin Housing and Economic Development Authority, and contains the universe of such developments in Wisconsin.
- To measure proximity of Section 42 developments to each single-family house, we used a Euclidian distance measure, which we calculated based upon the latitudes and longitudes of the developments and the houses. We also develop a "gravity measure" that combines the effects of magnitudes and distances on values.
- To this point, our results for Wisconsin are generally consistent with results in other studies: we have not been able to find evidence that Section 42 developments cause property values to deteriorate. The exception is Milwaukee County, where properties that are distant from the developments seem to appreciate more rapidly, although the magnitude of the effect is small. We have found no evidence of an impact in Waukesha and Ozaukee, and find evidence that properties in Madison near Section 42 developments appreciate *more* rapidly.
- In our view, the key policy implication of our results is that Section 42 developments are best placed in relatively affluent communities, where there is no evidence that that developments cause property values to deteriorate. This phenomenon is consistent with findings from past literature.

Low Income Housing Tax Credit Housing Developments And Property Values

Introduction

Few causes will mobilize American citizens, at least the 68 percent who own their homes, faster or more effectively than a perceived threat to the value of their property. It is common for at least some neighbors to object to low income housing developments, whether traditional public housing, or privately (for-profit or nonprofit) developed housing under the Section 42 Low Income Housing Tax Credit (LIHTC) program.¹ This phenomenon is not limited to LIHTC developments, of course; for example, waste disposal facilities, power lines, community care facilities, and even churches are among nonresidential uses that at least some homeowners have objected to in recent times, giving rise to the well-known rallying cry, "Not In My Backyard."² Even during the recent California electricity crisis, neighborhood associations continued to enforce prohibitions against air-drying clothes outside, citing potential reductions in housing values.

But are these perceptions of lowered property values correct? An emerging literature (to be surveyed below) suggests that quite a few NIMBY concerns are unfounded. As Fischel (2000) has elegantly pointed out, even if it is unlikely that a given activity actually reduces values, merely a low probability is sufficient to engender opposition, given the stakes involved for an individual homeowner. On the one hand, this suggests that if LIHTC developments do not lower nearby property values, solid and convincing evidence will be required in order to assuage NIMBY fears. On the other hand, if it turns out that LIHTC developments do lower neighbors' property values significantly, knowledge of such potential losses could be used to revisit development design so as to remedy such problems and reduce opposition to developments.

¹ Add some references, including newspaper articles.

² For example, Farber (1986), Michaels and Smith (1990), Hughes and Sirmans (1992), Thibodeau (1990).

The Low Income Housing Tax Credit Program

The Low Income Housing Tax Credit was originated in conjunction with the Tax Reform Act of 1986 (TRA 86) to provide incentives for private sector production of low-to-moderate housing. The credits provide a mechanism for funding a wide range of developments including new construction, substantial rehabilitation, moderate rehabilitation, acquisition, and repair by existing owners. Over the initial three years of the program, about \$6 billion worth of funding, aiding 300,000 units of low-to-moderate income housing, was made available. Program activity then increased, as the non-subsidized multifamily market declined. Lately tax credit units have comprised about 40-50 percent of total multifamily construction.

The Low Income Housing Tax Credit provides up to 70 percent³ of the cost of new construction or 30 percent of the cost of acquisition of existing low income housing in return for limits on rents charged. The credit is paid as an annuity over ten years. The credits are allocated over a ten-year period based on the "Applicable Federal Rate" (AFR). Nominally the value of the credit is 9 percent annually for the 70 percent credit and 4 percent annually for the 30 percent credit. For acquisition of existing rental housing, the applicable credit is also 4 percent.

The developer must decide between two options for the unit. Either 20 percent of available rental units must be rented to households with income less than 50 percent of the county median income (adjusted for family size), or 40 percent of the units must be set aside for households with income less than 60 percent of the county median income. (The rent can be adjusted in future years as median incomes change). The maximum gross rent, including utilities, paid by households in qualifying units may not exceed 30 percent of maximum qualifying income. The federal program mandates a fifteen-year period for maintaining the unit as a low-income unit. If the rent restrictions are not followed, there are provisions for recapturing the tax credits used. For more on the mechanics of this program, see Guggenheim (1989).

³ When the credits are "sold" in a secondary market, however, they generally sell for between 65 and 70 percent of face value.

In Wisconsin, the LIHTC program is administered by the Wisconsin Housing and Economic Development Authority (WHEDA). WHEDA sets local program rules, in line with Congressional and Treasury rules, collects and evaluates proposals for developments, and monitors development compliance and effectiveness.

Previous Research on Negative Housing Externalities

Many papers have studied the localized effects of housing externalities, whether negative “bads” such as environmental problems, traffic congestion, or nonconforming uses; or positive “goods” such as high-performing schools or other amenities.⁴ In this brief review, we focus on studies of one kind of low-income housing development or another.

All such studies revolve around some kind of comparison of housing prices near and far away from housing developments, controlling for other locational features. The major methodological differences among studies revolve around how these comparisons are undertaken. More specifically, (1) how are two sets of “comparable” housing units with and without the “treatment effect”⁵ of developments defined; and (2) how are prices compared?

Generally, there are two main methods of measuring the “treatment” to be found in this literature. First, and simplest, the analyst can construct some kind of price index, either in levels (dollar amounts) or changes (percentage growth in prices) for a “treatment group” of neighborhoods or units with developments, and a “control group” of units or neighborhoods without. The great difficulty in doing such a study well is in finding otherwise nearly-identical units and neighborhoods to compare, that differ more-or-less only in whether developments exist nearby.⁶ The second method is to combine all units or neighborhoods in the study together, but rather than separating them into two distinct groups, study the effect of some continuous measure of distance to developments, usually using regression analysis to obtain a *coefficient* that quantifies the effect of distance from a development on some price measure. The regression also allows us to measure a

⁴ See Follain and Malpezzi (1981) and Jud (1981) for “goods,” and Gamble and Downing (1982), Hughes and Sirmans (1992) and Thibodeau (1990) for “bads.” See Palmquist (1992) and Bartik (1986) more generally.

⁵ In statistical jargon, the “treatment” refers to the phenomenon under study (here, being near public housing) and the “treatment group” is comprised of those nearby projects. The “control group” consists of otherwise similar units or neighborhoods farther away from the influence of projects.

⁶ Part of that judgment is determining what exactly “nearby” means.

standard error around a coefficient. These standard errors allow us to determine the potential range of impacts within which we can have a certain degree of confidence. In another context, the standard errors in survey data underlie the “sampling error” referred to in media reports. When, for example, the media report that the president has a 65 percent approval rating with a sampling error of plus or minus three percent, the three percent arises from the standard error of the underlying survey. The standard error also allows us to determine whether the price effect measured by the coefficient is different from zero, or whether it is simply the product of randomness.

How are these house prices measured in these impact studies? Generally, there are three main methods of price construction found in this literature. The first is to work with some kind of average or median housing price for each group, treatment or control. These prices may be considered in levels or changes, but the problem comes in attributing any observed differences to true differences in price, as opposed to some unobserved difference in the quantity or quality of housing services obtained from typical units in one group, as opposed to the other.⁷

The second method is to regress sales “prices” or other measures of market value against characteristics of the units, such as the size of the unit, various quality variables, and neighborhood variables, including distance of the unit from the developments. These so-called “hedonic price indexes” are familiar to housing economists as well as real estate appraisers, although appraisers usually use another name. In effect, hedonic models are a statistical version of the comparable-sales approach to valuation.⁸ Hedonic models work well when carefully implemented, and they can be constructed to work in either levels or changes; one problem with them, especially relevant to the present study, is that to do them well requires a lot of data on unit and neighborhood characteristics and location, which are often difficult to obtain.

⁷ More detailed explanations of the problems involved in measuring housing prices, and the methods briefly described here to attach these problems, can be found in Green and Malpezzi (forthcoming).

⁸ See Green and Malpezzi (2001) and Malpezzi, Ozanne and Thibodeau (1980) for more detailed discussion of these models.

The third method is to measure price changes for identical units by examining the price changes of units that have sold twice, or more often, during the study period. Because these are in effect comparisons of the same units, detailed data on unit and neighborhood characteristics are not needed (other than, in the case of our model below, distance to developments). Of course these so-called “repeat sales indexes” rely on several other assumptions, notably that there have been no major changes or renovations to units during the study period; and that there has been no significant physical depreciation or major change in neighborhood conditions. These are obviously strong assumptions, and we will return to them in our detailed discussion of our own repeat sales models. It should also be noted that repeat sales indexes only tell us about price changes (appreciation rates). They cannot, on their own, tell us about the level (dollar amount) of prices. Repeat sales models have been used in several influential previous studies of the effects of housing developments on nearby units, and we will make use of them in our own study.

We will return to the repeat sales model and other details of our own study later. Next we will briefly review previous studies that focus on one kind of public or low-income housing or another.⁹

In the discussions below, we will be referring to statistical significance. What we mean by significance is whether it is unlikely that a relationship that we observe is random. When a relationship is statistically significant, it is highly unlikely that it is random.

But significance is distinct from importance. We may observe in data a consistent, but small, relationship between two variables. When we work with large data sets, we will often observe statistically significant and economically unimportant relationships.

⁹ We are of course aware that traditional public housing differs greatly from LIHTC projects. That is one of the motivations for the present study. Still, the general setup of the problem is the same. Also, since most observers would agree that the “negative externalities” of LIHTC units are less than those from public housing, a finding that public housing’s negative externalities were small or insignificant would tend to suggest that LIHTC units would have little effect on their neighborhood. One counterargument might be if public housing units were typically located in “bad” neighborhoods with already-low prices, while LIHTC units were located in “better” neighborhoods.

One of the first, and one of the most often cited, studies of the effects of public housing developments on nearby private units is Hugh Nourse's (1963) study of St. Louis. Interestingly, the point of departure for Nourse's article was an investigation of claims by Congressional sponsors that public housing *raised*, rather than lowered, nearby property values. Nourse applied the then-new method of repeat sales to construct price indexes for each of three neighborhoods containing eight public housing developments, and to then construct price indexes for three control neighborhoods that were nearby and similar in housing and demographic characteristics. His data were from 1937 to 1959. Nourse found that, in two of his paired comparisons, the trends in prices between treatment and control neighborhoods were roughly the same. In the third paired comparison, the trend in prices seemed higher in the treatment neighborhood, i.e. the neighborhood with public housing; but the difference in trend was not statistically significant. Nourse examined each of the annual differences between price changes in the treatment neighborhood and its control neighborhood, using a procedure called a t-test for the significance of the differences between the two. In only one case in 65 could Nourse find a statistical difference between neighborhoods with public housing and neighborhoods that did not have such housing. Given the way we measure statistical significance¹⁰, we would expect to see statistical differences in randomly generated data one time in 20, simply as a function of chance. Nourse thus concluded that his data provided no evidence that neighborhoods containing public housing appreciated at a higher or lower rate than neighborhoods without. We would expect Section 42 developments to be more beneficial to neighborhoods than public housing, because the market gives private developers better incentives to manage property than public-sector developers, who face no such market discipline.

Another early study that is often cited is Robert Schafer's (1972) study of Below Market Interest Rate (BMIR) housing in Los Angeles. Schafer compared two comparable neighborhoods, one with BMIR housing, one without, using data from 1958 to 1970. His methodology was essentially similar to Nourse's. One point of interest for our own study is that BMIR housing might be considered closer to LIHTC housing than traditional public housing. The earlier BMIR and the current LIHTC programs certainly differ in many respects, not least of which is their financing mechanism – BMIR

¹⁰ We generally accept that groups are statistically different when we can do so with 95 percent confidence.

housing's subsidy consisted mainly in the program's concessionary interest rates, whereas the LIHTC program relies on a more complicated system based on the "sale" of tax credits. But both programs essentially subsidize privately developed and owned rental real estate targeted to lower middle income households. In the event, the area with the BMIR housing actually exhibited slightly higher appreciation than the control group, although the differences were again not statistically significant. So once again the analysis failed to support the hypothesis that low-income housing developments reduced nearby property values.

A third early study by Joseph DeSalvo (1974) found essentially similar results, examining New York City's Mitchell-Lama program, which subsidizes (initially lower) middle income private apartments. Assessed values near the developments appreciated faster than assessed values of control areas. The fact that this study was forced to rely on assessed values, rather than market transactions, is one possible shortcoming.

A (1985) study by Donald Guy, John Hysom and Stephen Ruth had somewhat different findings. Guy *et al.* examine housing located near two BMIR developments in newly constructed middle-income housing in Fairfax County, Virginia, using sales data from 1972 through 1980. The authors differed from the previously cited studies by relying on the hedonic regression approach, regressing sales prices against characteristics of the units, including distance to the nearest BMIR development. Their list of independent variables is a short one, but since they are limiting themselves to a fairly homogenous group of town homes in several adjacent developments, their specification seems reasonable.¹¹ They found that sales prices rose about \$1.57 for every additional foot of distance away from the development.

A more recent study was undertaken by Chang-Moo Lee, Dennis Culhane and Susan Wachter (1999). Unlike previous studies, Lee et al. examined several different federally assisted housing programs and designs, denoted (1) high rise public housing, (2) large scale public housing, (3) homeownership public housing, (4) public housing built after 1980. These categories were not all mutually exclusive. Dummy variables were included for whether a given unit was within either a 1/8- or 1/4-mile radius of a development. Sales prices from 1989 through 1991 were the dependent variable, and other variables controlled for area demographic, housing, and amenity variables. Results

¹¹ See Butler (1982) and Ozanne and Malpezzi (1985) for discussion of the importance of a correct hedonic specification.

show that public housing developments exert a modest negative impact on property values. Scattered-site public housing and units rented with Section 8 certificates and vouchers have slight negative impacts. Federal Housing Administration-assisted units, public housing homeownership program units, and Section 8 New Construction and Rehabilitation units have modest positive impacts. Low-Income Housing Tax Credit sites have a slight negative effect in two of their four models, and no effect in their other two. Given that they had a sample size of over 18,000 observations, it is actually surprising that they could run models where the coefficients on LITC developments were not significant. When Lee et al. got significant coefficients, they were still trivially small. Results suggest that homeownership programs and new construction/rehabilitation programs have a more positive impact on property values.

Another study was carried out by George Galster, Peter Tatian, and Robin Smith (1999). Galster et.al examined the price effects on neighboring single family homes of Section 8 developments in Baltimore County, Maryland. Interestingly, they found that the effects of a development on neighboring properties were related to the type of neighborhood. In higher-valued, faster-appreciating, predominantly white tracts, developments actually were associated with higher prices in nearby locations. On the other hand, in lower valued tracts experiencing real declines in values, Section 8 developments were associated with adverse impacts on prices. These adverse impacts were highly localized, beginning to fall off significantly after 500 feet and virtually disappearing within 2,000 feet. Galster et al. also conducted focus groups with nearby home owners that suggested that the kind of effect the development had was determined at least partly by the management of the development.

Santiago, Galster and Tatian (2001) examined the effect on nearby properties of rehabilitation developments in Denver. Existing dilapidated properties were acquired by the Public Housing Authority, rehabilitated, and occupied by subsidized housing tenants. Using hedonic methods to control for characteristics of the neighborhood as well as the unit, Santiago et al. found that proximity to a subsidized housing site generally had an independent and positive effect on single-family home sales prices. There were exceptions; in neighborhoods that had high percentages of black residents, proximity to the sites were associated with lower growth in housing prices. Santiago *et al.* suggest there exists a threshold within “vulnerable” neighborhoods “whereby any potential gains

associated with rehabilitating existing units are offset by the increased concentration of poor residents.” Another study that suggests the impacts of developments on property values varies by the type of development was carried out by Goetz, Lam, and Heitlinger (1997). In their study of subsidized multifamily housing in Minneapolis, Goetz et al. found that units operated by non-profit community development corporations had slight positive impacts on property values, while large public housing developments and older Section 8 new construction developments had slightly negative effects on nearby property values. Briggs and Darden (1999) studied effects on property values on the introduction of scattered site public housing in Yonkers, New York. A related issue, that the introduction of assisted housing leads to “tipping” and a high degree of racial turnover in local neighborhoods was studied by Freeman and Rohe (2000). Freeman and Rohe found that assisted housing had no such impact.

Problems shared by most or all of these studies include the following. First, many of the studies are based on limited numbers of observations, which reduces the power of the test, which means that it is difficult to distinguish between truly significant and insignificant results. The precision of our estimates and the “power” of our test generally rises as we add data, up to a point; many of the early studies, especially Nourse’s and Schafer’s, may suffer from having a modest number of sales to study.

Secondly, the nature of treatment-control is often problematic. In studies such as Nourse’s, where the analyst chooses a treatment area and control area, there is art as well as science in matching such areas up; and of course the discrete nature of the categorization can cause problems. Consider two neighborhoods, one treatment and one control. Suppose that there are some units as far as half a mile from the development in the treatment neighborhood; suppose that there are some units just over half a mile away in the control neighborhood. The former units are lumped in with units literally on the doorstep of the development; the latter are lumped in with units perhaps a mile away. How and where do we draw this line?

On the other hand, models that include linear distance to the development have their own problems. Most such studies simply enter a linear distance. The dollar effect¹² of moving out from 50 feet away to 51 feet is constrained to be the same as that from

¹² “Dollar effect” assuming a linear hedonic, as in Guy et al. If a semilogarithmic specification is used, the effect will be approximately a percentage change effect. See Halvorsen and Pollakowski (1981), and Malpezzi, Ozanne and Thibodeau (1980).

moving 5000 feet away to 5001. Consider the fact that any such effects might in reality be nonlinear, e.g. the effect of moving out a short distance might be great when close in but small when farther away. Furthermore, consider that the analyst must also worry about other locational effects. For example, the “standard urban models” of Alonso, Muth and Mills, and more recent variants such as Cappoza and Helsley, all predict that percentage appreciation in housing prices will be greater as we move farther out from the center of the city.¹³ If some of the control units are farther out from the center than corresponding treatment units, we may confuse this pure locational effect (slower rates of appreciation in the center of the city) with a negative externality. Similarly, if prices appreciate differently in high and low income areas, but developments are located in low income areas (perhaps because approvals are easier to obtain, or perhaps because LIHTC developers are particularly focused on lower land costs), then the location of the development is “endogenous,” i.e. is determined partly by the very thing we want to study (price differences). Thus it is important to control for neighborhood and location attributes as well as the housing unit.

¹³ In brief, this is because as long as transportation costs remain stable, as a city grows, rents and prices for a similar housing unit at different locations will grow by a similar dollar amount; but a given dollar increase translates into a larger percentage increase on the fringe of the city, where initial prices are lower due to lower land costs.

A Simple Model for Measuring External Effects of LIHTC Developments

In this section we describe the model we will use. The first part of the section describes repeat sales methods in some detail.¹⁴ The second part elaborates on how we incorporate location vis a vis developments, and some other details of our particular variant of the model.

Repeat Sales indexes are estimated by analyzing data where all units have sold at least *twice*. Such data allow us to annualize the percentage growth in sales prices over time.¹⁵ These are time series indexes in their purest form. They do not provide information on the value of individual house characteristics or on price levels. They have the advantage of being based on actual transactions prices, and they reduce mis-measurement arising from having an insufficient number of characteristics for explaining house price. However, units that sell are not necessarily representative of all units. Sometimes it's difficult to tell whether a unit retains the same characteristics across time. For example, remodeling could cause a house's characteristics to change.

The best way to understand how repeat sales indexes work is by example. Figure 1 shows a graph of seventeen properties which sold twice in the Shorewood Hills neighborhood of Madison, Wisconsin in the late 80s and early 90s. Each property is numbered with 1 to 17, and each property appears twice. The vertical axis is the logarithm of the selling price of the unit.

We can think of the repeat sales estimator as an attempt to measure the average slope of the lines in Figure 1, year by year. In a classic paper, Bailey, Muth and Nourse (1963) illustrated how to compute this using regression methods and a larger sample. The method was later refined by Case and Shiller (1987), who took steps toward mitigating the problems arising from the fact that as distance between sales increases, so too does the variability of price appreciation across houses.

Consider a house "A" that sells in periods 2 and 4 (period 0 is the base year). The physical characteristics of the house have likely not changed much over this time period; any change in price represents a change in land value and the change in cost of the construction labor and materials that would be needed to replace the house. Because

¹⁴ This discussion draws heavily on Green and Malpezzi (forthcoming).

¹⁵ Actually, as we will see later in this section, with large samples regression techniques are used, but it amounts to the same thing.

labor and materials costs are homogenous within a metropolitan area, differences in house price changes are a function of differences in changes in land values, which are in turn a function of how the market values neighborhood amenities.

Table 1 illustrates this with the sample data. The first two columns of Table 1 contain the first and second sales prices from our repeat sales sample. The third column is simply the difference in the natural logarithm of these prices (which is very similar to the percentage change in price). The next two columns record the dates.

Let us for simplicity consider time to be represented in years. 1986 is the base year. Then let us have zero-one ("dummy") variables represent 1987, 1988 and so on through 1992 (i.e. Notice the coefficient for, say β_{1988} , is negative if the unit is first sold in period 2 (i.e., 1988) and positive if it is last sold in period 2, but the magnitude of β_{1988} stays the same in either case. Thus we can simply construct a dummy variable which imposes this restriction upon the estimation. That is, we construct a dummy variable which takes on the value -1 if it is the first sale, +1 if it is the second sale, and 0 if no transaction took place during the period. Then we simply regress the difference in log prices (or, roughly, the percentage change in prices) against this matrix of rather unusual dummy variables.¹⁶ Then the coefficients of each of these dummies yield an estimate of the changing price between the base period (here in 1986) and succeeding periods.

A key point about interpretation: a reasonably close estimate of the annual price change can be computed by subtracting one year's coefficient from the next period.¹⁷

Another possible refinement is to consider the fact that the variance of these housing prices will generally increase over time. In today's econometric parlance, such prices are not *stationary*. Case and Shiller (1987) suggest a refinement to the Bailey, Muth and Norse model to mitigate such problems.

¹⁶ Econometricians will notice that we suppress the constant term in the regression because it drops out in the subtraction of the two characteristic vectors X.

¹⁷ If we wish to interpret these as percentages, we should make the Halvorsen and Palmquist (1980) correction discussed above.

Repeat sales indexes are currently much discussed in the literature because they have the following advantages:

1. No information is required on the characteristics of the unit (other than that an individual unit has not significantly changed its characteristics between sales).
2. The method can be used on data sets which are potentially widely available and collected in a timely manner, with great geographic detail, but do not have detailed housing characteristics. For example, Case and Shiller's original work used data collected by the Society of Real Estate Appraisers. Much of the current research in this area has been undertaken by Fannie Mae and Freddie Mac, who have the advantage of large data sets with price data from a huge number of transactions nationwide.

The repeat sales method has a number of shortcomings as well. For example:

1. Even at its best, the method only yields estimates of price *changes*. No information on price levels, or place to place price index, is derivable from the repeat sales method. Of course, the repeat sales method can be combined with some other method; i.e., to update earlier estimates of price levels constructed using some other method.
2. Because only a few units transact twice over a given time period, the repeat sales method utilizes only a fraction of potential information on the housing market.
3. Units that transact frequently may be systematically different from units representative of the stock as a whole (Gatzlaff and Haurin, 1993). How big this problem is depends partly on the purpose of the index. It certainly would be less of a problem if the purpose of the index was to track the prices of units that transact.
4. The method implicitly assumes that there is no change in the quality or quantity of housing services produced by the unit between periods. Of course, this assumption is always violated to some degree. Those who construct these indexes spend a lot of time weeding out units which have been upgraded using, for example, collateral data on building permits, or the limited structural information that may exist in the data set in use.
5. The method also assumes that the coefficients on the underlying hedonic model remain constant: this is what allows the house characteristics to drop out of the model. But this assumption may also be questioned. For example, as families have gotten smaller, so too has the value of bedrooms, holding all else equal. Thus the hedonic coefficient for bedrooms in 1990 was almost certainly different from the coefficient in 1960, regardless of the particular market (see Gatzlaff, Green and Ling (1997) for a specific case).

Now that we have set the stage with a discussion of repeat sales models in general, let us discuss our particular specification. The first thing we note is that our data series are relatively short in length: ten years in the case of Madison, and five years in the case of Metropolitan Milwaukee. This means that it is unlikely that the relative value of housing attributes such as bedrooms have changed much, and that most of the differences in changes in property values across places arises from differences in land values. We therefore can be confident that only differences in major changes in neighborhood characteristics will lead to differences in changes in property values. An example of a major change might be the introduction of a Section 42 development.

We also note that urban economic theory and empirical observation tells us that land in the center of cities appreciates less rapidly than land on the periphery; we therefore must control for location relative to the central city if we wish to find the determinants of differences in appreciation rates.

Because properties that record very many sales are unusual and may be reflecting something other than normal transactions, we omit any properties that record more than four sales in five years. Properties that sell twice in one year are also omitted.

Our matrix of sales dates is comprised of years. Finer breakdowns are not possible because the number of observations in each date cell becomes sparse if we use quarterly or monthly dates as the columns of D . But a year is a long time; consider one property that sells in January of 1990 and later in December of 1991; we record the sale as one year apart, while the true distance is closer to two years. A pair of sales in December 1990 and January 1991 are also recorded as a year apart, even though they're roughly a month or two apart. To partially correct for this, we add a continuous variable $m1$ for the number of the month of the first sale ($m1 = 1$ if sale 1 is in January, $m1 = 2$ if sale 1 is in February, and so on), and an analogous variable $m2$ for the month of the second sale. This imposes a restriction that the percentage premium or discount over the average price change for that year is the same as we move a month forward or back a month, i.e. there are no seasonal effects in house prices.

Finally, so far our discussion assumes that the relevant measure of proximity to a development is the linear distance to the nearest development. Many prior studies, such as DeSalvo (1997), make this reasonable assumption. But it is certainly possible that the relationship is more complex. First of all, the relationship between distance and price

could be nonlinear. It is at least as reasonable to assume that the effect of distance is stronger as we observe close in locations; moving from 100 feet away from a development to 200 feet away might have a different effect than moving from 5,000 feet away to 5,100. Second, distance to the nearest development fails to capture whether there are yet other developments nearby. Third, our simple distance variable does not account for the size of the project.

All three issues can be addressed rather neatly with the so-called “gravity” measure of distance.¹⁸ This draws on the well-known Newton’s law of gravitation and constructs a measure of “gravity” that is a function of size and squared distance: this specification allow large projects to have a larger effects than small projects, and for distance to become less important as it gets larger.

Data

For Madison, we obtained every sale of a single-family house recorded between 1990 and March 2001 from the Realtors Association of South Central Wisconsin. From these we culled a sample of repeat sales, which gave us 3138 observations. We also obtained data from the Wisconsin Housing and Economic Development Authority on Section 42 Low Income Housing Tax Credit buildings in Madison: we have a sample of 125 buildings.

The Department of Planning of the city of Madison provided us with a data set that matched tax key identification numbers for each parcel in the city to locations for each parcel as represented by latitude and longitude. We then measured the Euclidean distance from each repeat sale observation to (1) the state capital (to capture the “urban economics” effect described above) and to (2) each low-income housing tax credit development. After we performed step (2), we determined the minimum distance of any particular development to each observation, and use that minimum as our distance measure. We also constructed a gravity measure that took into account development size, the number of developments near each house in the data set, and squared distance.

¹⁸ See Lowry (1964) for the classic formulation of this model, and see Isard (1999) for a discussion of the analogy between this model and Newton’s use of it in physics.

For the Milwaukee Metropolitan area, we obtained every sale of a single-family house recorded between 1995 and March 2001 from the Metropolitan Multiple Listing Service¹⁹. From these we again culled a sample of repeat sales, which gave us 2258 observations for Milwaukee County, 367 observations for Waukesha County, and 425 observations for Ozaukee County.²⁰

We should note that while Milwaukee, Waukesha and Ozaukee Counties lie within the same metropolitan area, the suburban counties are quite different demographically and economically from the central city county. Median Household Income in Milwaukee County in 1997—the most recent available year—was approximately \$37,000, while in both Waukesha and Ozaukee Counties it was approximately \$62,000. The poverty rate in Milwaukee County that year was 16.5 percent, while in the two suburban counties it was around three percent. Finally, the 2000 census reported that 24.6 percent of Milwaukee County's population was African-American, while African-Americans made up less than one percent of Waukesha and Ozaukee Counties populations.²¹

Although we think our repeat sales methodology allows us to control for neighborhood characteristics, we also ran regressions that include specific controls for neighborhood poverty rate, income, marital status, percentage African-American, percentage married-couple, and percentage of households headed by women. We obtained these data from the 1990 census, and neighborhoods are defined by zip codes. As we shall see below, these controls had little influence on our overall results.

Results

We report our results for Madison in Table 2. We have to this point specified five models: one that looks at the influence of linear distance on percentage change in price; one that looks at linear distance and linear distance squared, one that looks at the interaction of distance and year in which sales take place, one that uses a gravity measure, and one that includes neighborhood controls. The R^2 statistics reported in the table reflect the explanatory power of the variables *beyond* the year-dummy control variables. Note that these generally have small explanatory power.

¹⁹ We thank Peter Shuttlesworth and the Metropolitan MLS for these data.

²⁰ We dropped observations from zip code 53235, because it did not exist in 1990, and was therefore bereft of census data we needed for our analysis.

²¹ These data are from <http://quickfacts.census.gov/qfd/states/55/55089.html>

Our first specification suggests that being proximate to a low-income housing tax credit development does not diminish value—indeed, it appears to enhance value. But this may be a function of the specification. We next move to a specification with a quadratic, which is negative in both the linear term and in the squared term. This means that as one moves further away from a LIHTC development depreciation increases at a rising rate. This result should not be taken very seriously, however, because the coefficients on both the linear and the quadratic term have t-statistics of well under 2: they are not individually different from zero at the 90 percent level of confidence: they are not statistically significant.

For the interactive regression, we test the null hypothesis that all of the coefficients that interact distance with year sold are equal to zero.²² The F-Statistic of this joint test is .71, which is well below the 90 percent critical value of 17.28—in short, the coefficients on proximity to a Section 42 unit add no explanatory power to changes in value.

The gravity regression gives us a similar result. The null hypothesis that the coefficients on the “gravitational pull” pull is different from zero produces an F-statistic of only 0.47! At the same time, the linear distance coefficient retains its negative sign, meaning again that if anything, the developments enhance value.

Finally, when we include controls for neighborhood poverty rate, income, marital status, percentage African-American, percentage married-couple, and percentage of households headed by women, the coefficient on linear distance between each single family house and Section 42 development is negative, and is even different from zero.

These five specifications leads us to the view that there is no evidence that proximity to low income tax credit developments diminishes value. Indeed, if anything, we find that proximity to such developments might *enhance* property values.

²² Alone among the Madison regressions, this is not a residual regression: year dummies and interactive terms are included at the same time. This is why the R^2 is much higher in this regression than the others.

In Table 3 we report results for Milwaukee.²³ We get a very different result from Madison: now proximity to a development seems to matter, and seems to have a negative impact on appreciation rates. Table 3 shows that in three out of four regressions, the impact of nearest distance between a development and a repeat sales transaction is significantly different from zero at the 95 percent level of confidence (Regressions 1, 2 and 4 have t-statistics that are substantially greater than 2). The gravity measure estimated in regression 2 is also different from zero at the 95 percent level of confidence. The regression with the coefficient that is not significant lacks our most sophisticated measure of the potential impact: the gravity measure. We should note that the magnitude of the impact is not large: a one standard deviation movement in distance away from the project increases the appreciation rate by .5 percent. Moreover, it is possible that the location of developments is correlated with unmeasured neighborhood characteristics that cause properties not to appreciate in value. Still, there is no denying that the Milwaukee result contrasts sharply with the results for Madison.

The Milwaukee result also contrasts with the results for Waukesha and Ozaukee (see Tables 4 and 5), where there is no evidence that the developments have an impact on value. The coefficients on our distance measures are not only not significant, they are extremely close to zero in magnitude. If there are two places where we may say with some confidence that Section 42 developments have no discernable impact on value, these two are they.

These results are consistent with the idea that Section 42 developments are best cited away from concentrations of poverty. At least in Wisconsin, the impact of the developments on surrounding property values in relatively affluent areas seems to range from neutral to positive, while this does not seem to be the case in the state's largest city within which there is a concentration of poverty. These results are also quite consistent with previous literature.

²³ In an earlier version of this paper, the explanatory variable we used for Milwaukee was not distance from the nearest Section 42 building, but rather the number of developments in the census tract. We had only data for the city of Milwaukee, which we obtained from the assessor's web page. The regression set-up was also slightly different from the Madison set-up: with the Madison regressions, the independent variables were explaining the variation in house prices after the "year effect" was removed. For Milwaukee, we reported both year effects and other effects. We found that income was positively associated with value growth, however, we found that there is no statistical evidence that the presence of Section 42 developments has an influence on appreciation rates. (see Appendix Table 1). On the other hand, because data in tracts containing Section 42 developments was so limited, we did not want to place too much weight on this result. Rather, we sought to develop better data that allowed us to use distance measures, and we succeeded.

Conclusions

In this report, we have investigated the impact of Section 42 developments on surrounding property values. Past work has suggested that low-income housing in general, and Section 42 developments in particular, do not generally have a negative influence on surrounding property values. We sought to find whether these results applied to Wisconsin cities.

To this point, we have indeed found that the findings apply to Wisconsin as well. In the cities of Madison and in Waukesha and Ozaukee Counties, we have been able to produce no evidence that Section 42 developments have a negative impact on property values. When we look at Milwaukee County, our story changes—there does indeed seem to be a negative—albeit small—impact on appreciation rates. If the results from this study suggest anything, it is that it may well be better to site Section 42 developments in areas that lack concentrations of poverty. This is consistent with the view that it is better for communities for housing developed for low to moderate income households to be scattered, rather than concentrated.

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Table 1: Repeat Sales Example from Shorewood Hills

Number	First Sale		Second Sale		Matrix of Time Dummy Variables (1986 is Base Year)													
	Price	Sale	Price	Sale	1986	1987	1988	1989	1990	1991	1992	1986	1987	1988	1989	1990	1991	1992
1	200,000	232,000	0.148	June 1991	0	0	0	0	0	0	0	0	0	0	0	0	0	1
2	131,000	180,000	0.318	May 1987	0	-1	0	1	0	0	0	0	0	0	0	0	0	0
3	66,500	95,100	0.358	November 1988	0	0	-1	0	0	0	0	0	0	0	0	0	0	1
4	85,000	90,000	0.057	March 1987	0	-1	1	0	0	0	0	0	0	0	0	0	0	0
5	145,000	186,000	0.249	June 1988	0	0	-1	0	1	0	0	0	0	0	0	0	0	0
6	175,000	215,000	0.206	June 1988	0	0	-1	1	0	0	0	0	0	0	0	0	0	0
7	240,000	261,566	0.086	July 1987	0	-1	1	0	0	0	0	0	0	0	0	0	0	0
8	186,250	244,500	0.272	August 1989	0	0	0	-1	0	0	0	0	0	0	0	0	0	1
9	455,000	506,000	0.106	July 1988	0	0	-1	0	0	0	0	0	0	0	0	0	0	1
10	58,200	69,000	0.170	July 1988	0	0	-1	0	0	0	0	0	0	0	0	0	1	0
11	157,000	340,000	0.773	June 1987	0	-1	0	0	0	0	0	0	0	0	0	0	0	0
12	85,000	127,500	0.406	Sept 1986	-1	0	0	0	0	0	0	0	0	0	0	0	0	0
13	75,900	87,900	0.147	Sept 1987	0	-1	0	0	0	0	0	0	0	0	0	0	0	0
14	149,800	195,000	0.264	June 1987	0	-1	0	0	0	0	0	0	0	0	0	0	0	1
15	88,500	186,000	0.743	June 1988	0	0	-1	0	0	0	0	0	0	0	0	0	0	1
16	144,000	302,000	0.741	April 1986	-1	0	0	0	0	0	0	0	0	0	0	0	1	0
17	220,000	265,000	0.186	August 1989	0	0	0	-1	0	0	0	0	0	0	0	0	0	1

Table 2

Regressions Explaining Impact of Section 42 Developments on changes in House Prices: Madison

	(1)	(2)	(3)	(4)	(5)
Dcenter	0.18 (0.03)	0.18 (0.03)	0.17 (0.03)	0.46 (0.06)	0.10 (0.05)
Dmin	-0.42 (0.19)	-0.36 (0.47)	-0.40 (0.19)	0.26 (0.40)	-0.60 (0.23)
Dmin ²		-1.66 (11.27)			
Controls ?	N	N	N	N	Y
Interactions ?	N	N	N	Y	N
Gravity Measures?	N	N	Y	N	N
Gravity F-Statistic			0.50		
R ²	0.02	0.02	0.02	0.71	0.03

N = 3193. Standard Errors are in parenthesis.

Table 3
Regressions Explaining Impact of Section 42 Developments on changes in House Prices: Milwaukee County

Variable	(1)	(2)	(3)	(4)
Distance to County Courthouse	-0.23 (0.13)	-0.26 (0.13)	-0.44 (0.30)	-0.29 (0.32)
Distance to nearest Development	1.68 (0.46)	1.73 (0.46)	0.42 (0.52)	0.41 (0.16)
Controls	N	N	Y	Y
Gravity Measures	N	Y	N	Y
Gravity F-Statistic	-	4.28	-	-
Year of Sale	N	N	N	Y
R-square	0.01	0.01	0.02	0.03

Number of Observations: 2258
Standard Errors are in parenthesis.

Table 4
Regressions Explaining Impact of Section 42 Developments on changes in House Prices: Waukesha County

Variable	(1)	(2)	(3)	(4)
Distance to County Courthouse	-0.06 (0.06)	-0.07 (0.06)	-0.18 (0.11)	-0.16 (0.14)
Distance to nearest Development	0.19 (0.16)	0.19 (0.16)	0.12 (0.16)	0.05 (0.18)
Controls	N	N	Y	Y
Gravity Measures	N	Y	N	Y
Gravity F-Statistic	-	1.66	-	-
Year of Sale	N	N	N	Y
R-square	0.00	0.01	0.04	0.21

Number of Observations: 367
Standard Errors are in parenthesis.

Table 5
Regressions Explaining Impact of Section 42 Developments on changes in House Prices: Ozaukee County

Variable	(1)	(2)	(3)	(4)
Distance to County Courthouse	0.01 (0.17)	0.01 (0.17)	0.41 (0.61)	0.41 (0.62)
Distance to nearest Development	0.01 (0.50)	0.01 (0.50)	-0.01 (0.62)	-0.06 (0.63)
Controls	N	N	Y	Y
Gravity Measures	N	Y	N	Y
Gravity F-Statistic	-	0.00	-	-
Year of Sale	N	N	N	Y
R-square	0.00	0.00	0.00	0.04

Number of Observations: 425
Standard Errors are in parenthesis.

Appendix Table 1

Regressions Explaining Impact of Section 42 Developments on changes in House Prices: Milwaukee

Variable	Coefficient	Standard Errors
Year in 1995	-0.02	0.04
Year in 1996	-0.02	0.04
Year in 1997	0.03	0.06
Year in 1998	0.10	0.06
Year in 1999	-0.02	0.02
Year in 2000	0.02	0.04
Number of Developments in census tract	-0.02	0.03
Percentage of Married Households	-0.25	0.12
Percentage of Women Headed Households	0.48	0.28
Percentage of Black Headed Households	0.01	0.12
Median Income	0.00	0.00
Poverty Rate	0.02	0.18
R^2	0.47	

Greenland Apartments Limited Partnership
10333 Richmond Avenue, Suite #400
Houston, Texas 77042
(713) 781-5775 / (713) 781-8988 Facsimile

October 30, 2002

Mr. Robert Onion
Director of Multifamily Finance
Texas Department of Housing & Community Affairs
507 Sabine, Suite #800
Austin, Texas 78701

RECEIVED

OCT 31 2002

Multifamily Finance Division

VIA OVERNIGHT MAIL

RE: Response to Neighborhood Opposition
Greenland Park Townhomes, Harris County, Texas
LIHTC#02443/Bond Application #2002-012

Dear Mr. Onion:

This letter is written in response to the neighborhood opposition that you have received relating to the proposed Greenland Park Townhome development in west Harris County.

The issues voiced by the neighborhood groups, concerned individuals and their elected officials do not warrant a denial of this development. We believe that opposition to this development is based on misconceptions about the property, the program that is being used to finance the development and, most importantly, the perceived characteristics of the residents that would be living in the property.

Through e-mail correspondence, direct telephone conversations with individuals who have called our office, and through a public statement documented in the TEFRA Hearing transcript, we have offered to meet with neighborhood group leadership and any concerned individuals to discuss these issues and misconceptions. Other than the TEFRA Hearing, only one meeting occurred with the Rolling Green Subdivision on September 24, 2002. We have responded to all correspondence and phone calls that we received asking questions or requesting information.

The following offers our views on the issues raised by the neighborhood groups. Many of the issues raised are factually incorrect. Others are not consistent with our actual experience on other affordable housing developments or conventionally financed properties. Some of the issues relate to the growth of the area, in general, which is not caused by or related to the proposed development.

Writer's Direct Contact Information:

R. Brent Stewart
3101 Bee Caves Road, Suite #270
Austin, Texas 78746
(512) 477-9900 Ext. 15 / (512) 328-9616 Facsimile

We believe the proposed development fulfills the goals and objectives of the bond and tax credit program as stated by the Texas Legislature and the Texas Department of Housing and Community Affairs. The development demonstrates significant rent savings over other comparable multifamily product in the area. The local market currently shows high occupancies and does not contain any rent restricted or occupancy restricted properties. Additionally, this development is consistent with the goal of dispersing affordable housing around metropolitan areas and ending the concentration of affordable housing in generally low-income areas.

Issue – Lower Property Values:

- While initial concern of a negative impact on property values by the neighborhood groups is understandable, the studies that have examined the impact of tax credit developments on existing home property values do not support the argument that development of this property will lower home values in the area. For example, a study conducted by The Center for Urban Land Economics Research at the University of Wisconsin (which in addition to conducting their own data gathering and analysis reviewed the results of eight other studies) published in June 2002 states:
 - There is no evidence that Section 42 developments have a negative impact on property values;
 - In fact, it is often the case that low-income housing developments cause surrounding property values to increase at a faster rate than they normally would;
 - Increases in appreciation rates as a result of Section 42 developments are more likely to occur when the developments are placed in higher income areas;
 - The Wisconsin report concurs with the eight other studies - negative impacts on property values (the negative impact being slower appreciation rates not depreciation) occur in areas that already have concentrated poverty and an over-saturation of tax credit properties.
- In prior correspondence to you dated October 23, 2002, we provided additional evidence showing that the lower property value argument is false. The data, compiled from the Harris County Appraisal District, shows that homes surrounding one of our existing townhome developments in southeast Houston, Highland Meadow Village, outperformed the overall appreciation rates shown in Houston over the same period.
- There are many factors that influence housing values. Generally, areas that are experiencing growth in both residential and commercial development mean that home values are increasing. Local economic conditions impacting jobs as well as overall housing demand/supply are the direct factors impacting property values.
- Our development would serve to protect the neighborhood from non-residential uses on the site, which could impact the marketability of the homes in the

neighborhood. Obviously, that would depend on what type of development or business was eventually placed on the site.

- We want to see properties in this area continue to increase in value. We certainly want our proposed property to do the same. We believe that this property will increase the desirability and marketability of their neighborhood (certainly not detract from it) and support the continued appreciation of their homes.

Issue – Increased Crime:

- Crime issues on a multifamily property (whether affordable or conventional) have more to do with the general crime activity already existing in a neighborhood than with the income levels of the residents that reside on a property. There is not a direct relationship between crime levels and resident income particularly when looking at households in the 60% income level. These 60% income households are working individuals and families.
- The level of criminal activity is also a function of diligent management of the property including resident screening and eviction of residents that violate policies and rules of the property or their lease agreement. Our management policies and procedures mandate official notification and documentation of conduct or activity that violate property rules or lease terms. We are aggressive in issuing notices to vacate for non-rent related violations of lease terms.
- Should crime become problematic on any of our affordable or market rate properties, we typically implement a courtesy officer program, which provides housing units for Sheriff Deputies or Police Officers to reside on the property. Under that program and tied to their lease agreement, the courtesy officer performs the following duties:
 - Perform walks of the property each night;
 - Perform lighting checks;
 - Visits with residents that require police attention;
 - Keep management informed of problem residents and/or guests;
 - Advise on-site management on crime issues;
 - Report on monthly crimes in the area.
- Trammell Crow Residential is a well-respected property management company that understands the importance of monitoring the property and taking swift action when warranted. We want the property to remain marketable and know that a property or a neighborhood is not marketable if crime is an issue.
- We commit to work with the neighborhood associations on crime issues both in the neighborhoods as well as on our property.

Issue - Schools:

- School districts across this state are challenged with growth and finance issues. This issue is not unique to the Katy ISD and is a global issue across Texas.
- According to the Katy ISD Superintendent, Dr. Leonard Merrell, the proposed property will add 197 students to the school district and that the property would be a "tremendous financial liability rather than an asset".
- The market study concludes that there is sufficient demand from income-qualified households for the subject's units within the delineated market area. As such and because most of the future residents are already living in the area, their school-aged children are likely already enrolled in the Katy ISD. Therefore, the additional burden on the school district is significantly overstated.
- The Katy ISD recognizes that it is one of the fastest growing school districts in Texas and that it will continue to grow over the next decade. According to their website, they expect growth to continue between 5% and 8% per year bringing the enrollment to 70,000 by the 2011-12 school year. With the Katy ISD current enrollment at 40,000 students, this property will make-up less than 1% of their already anticipated one-year growth assuming the low-end growth estimate of 5% (only .6% if the growth rate is equal to 8%) and incorrectly assuming that all of the students will be coming from outside the Katy ISD area.
- Katy voters approved a \$315.6 million bond issue on October 5th to help address the growth issues including \$246 million for a new high school, two junior high schools and five elementary schools.
- To our knowledge, the Katy ISD has not opposed the proposed 320-unit conventional property planned along Park Row and Fox Lake nor the proposed single-family developments in the subject property's area totaling 485 homes.
- One of the benefits of the location of the property is the proximity to the Schmalz Elementary School. This proximity will provide easy and safe access to the school by the residents without the district incurring additional transportation costs. It is an added benefit to the parents in dealing with after-school commutes and provides us a better opportunity to coordinate after-school supportive services to these students.
- Regardless of the state's school finance system and its impact on Katy ISD, this property will be paying its full share of school and other property taxes. There are no property tax exemptions associated with this property.

Issue - Traffic & Congestion:

- There is no question that new development of any type impacts traffic. However, the site plan was designed to take advantage of the property's location on a corner and bifurcating egress from the property. The property will have ingress-egress from Green Land Way and egress onto southbound Barker Cypress (south of the

Green Land Way intersection). This will mitigate egress onto Green Land Way, which serves the elementary school and the neighboring subdivision.

- Barker-Cypress from Saums Road to Clay Road is currently at 41% of realistic capacity according to the Public Infrastructure Department, Engineering Division of Harris County. Barker-Cypress is a four-lane divided thoroughfare and the additional traffic generated by the property will not have a material impact on capacity.
- A new traffic light was recently installed at Barker Cypress Road and Green Land Way to help alleviate cross-traffic problems onto northbound Barker-Cypress Road.

Issue - Lack of Services (public transportation, medical facilities, jobs within walking distance in the area as well as shopping):

- The neighborhood groups state that the property is poorly located due to a lack of basic infrastructure such as public transportation, social services, jobs, medical facilities and grocery stores within walking distance. They further state that without this infrastructure, the project is "misplaced and represents an inefficient use of public tax money".
- The neighborhood groups assume that the residents do not own cars and will have to walk to jobs, medical facilities and other services. This assumption is false because:
 - o Residents at the 60% income levels generally own cars. In fact, 95% of the residents on our other affordable properties own cars even though the properties have access to public transportation in close proximity.
 - o Residents at the 60% income levels are capable of making housing decisions based on their means, desires and preferences just like anyone else that has chosen to live in the area. Any potential resident looking at this property as a viable housing alternative will take into account location factors and will either own a car or have access to other private transportation.
- Again, according to the market study, most of the residents that will occupy the property are already living in the area. As such, the residents are already familiar with the local area, its services and proximity to their employment.
- Residents will have the same access to employment, goods and services as the existing residents in the neighborhood. According to their own websites, the neighborhood groups tout the ease of access for commuters to Highway 290, easy access to the Sam Houston Tollway via Clay Road and that IH-10 is "just south on Barker Cypress". They further state, "Shopping, eating and recreation are as close as Fry Road. For mall lovers, West Oaks is about 15 minutes south and a new Katy Mills Mall is about 10 minutes west". Nearby recreational facilities include parks, a community zoo, and a velodrome.

Issue – No Demand or Need:

- The neighborhood groups state that the rents on the proposed development are higher than other apartments in the area and that there are vacancies in these properties. Therefore, there is no economic justification for this project. They further state that because of this, the development represents a “misuse of public funds”. As illustrated below, this issue is simply not true.
- The Market study details the significant need in the market area and that there are no rent restricted or occupancy restricted affordable housing currently existing in the area;
- There are equivalently priced and lower-priced apartment units in the area. These are not, however, comparable units or properties. These are older properties that vary in condition, amenities and unit sizes (66% of the units in the area were built prior to 1986).
- There are 10 comparable properties containing 2,671 units built since 1990 indicating an average rental rate of \$.90 per square foot and high occupancies (almost 97%). None of the properties in the area (old or new) are rent or occupancy restricted.
- The projected rental rates on the proposed development average \$.72 per square foot and are significantly below other comparable multifamily properties in the market area. The restricted rents translate into significant rent savings for the residents (15.8% to 18.8% savings per unit per month) that equate to a minimum 5% to 6% of the resident’s annual income based on the maximum allowable income levels.

Unit Size	Market Rent	Restricted Rent	Monthly Difference (Savings)	% Savings per Unit	Max. Income	Savings as % of Income
1-Bedroom	\$730	\$615	\$115	15.8%	\$26,820	5.15%
2-Bedroom	\$872	\$734	\$138	15.8%	\$32,160	5.15%
3-Bedroom	\$1,040	\$845	\$195	18.8%	\$37,200	6.29%
Totals/Avgs.	\$885	\$738	\$147	16.6%		

- The delineated market area chosen by the market analyst is relatively small in comparison to other market studies TDHCA has received (58,000 population/3.35 mile radius). Even with this limited market delineation, the market analyst concludes that there is “significant unmet demand”. Occupancies for both old and new properties are high (averaging 96.4%) and the sub-market indicates historical rental increases of 4% per year. These benchmarks indicate that the sub-market is conducive for additional multifamily development. Without the use of an

affordable housing program, the only new units that will be produced in the sub-market will be market rate products at rents that can support construction costs (\$.90 per square foot and above).

- With regard to the misuse of public funds argument, we could not disagree more. There is significant public purpose associated with the transaction: (1) rent savings averaging 16.6%; and, (2) the availability of occupancy-restricted units in a high-occupancy area where there is currently no rent restricted or occupancy restricted units. Additionally, tax-exempt bond proceeds are not technically public funds. The bond proceeds are private funds (namely Private-Activity Bonds), placed at-risk by the bondholder, guaranteed by the credit-enhancement provider and further guaranteed by the owner/developer. The State of Texas does not guarantee or incur credit risk for the bonds. The only public aspect to the bonds is the tax-exempt nature of the interest income earned on the bonds by the bondholder. There is no pot of "public" funds collected from taxpayers involved. There is no opportunity cost of the tax revenue given up by the federal or state government because the tax revenue on the bond interest will not exist whether or not the transaction is approved.

Summary:

None of the issues articulated by the neighborhood groups warrant a denial of this transaction. We have demonstrated that:

- (1) Property values will not be adversely impacted;
- (2) The impact to the local school district is overstated as this property will likely be serving residents that already live in the area;
- (3) Crime levels associated with apartments are dependant upon factors unrelated to resident income and that through our management efforts we commit to combat crime both on the property and within the neighborhood;
- (4) Residents in the 60% income level own cars. Future residents of the proposed property are likely already living in the immediate area and familiar with access to services and employment;
- (5) There is significant need in the area for rent and occupancy restricted units and this development will provide substantial rent savings;

We have purposely not addressed other issues raised by the neighborhood groups such as alleged problems with our compliance tract record or a conflict of interest as a result of my former employment with TDHCA. These issues are non-existent and can be confirmed by the appropriate divisions within your agency.

Again, we believe the proposed development fulfils the goals and objectives of the bond and tax credit program as stated by the Texas Legislature and the Texas Department of Housing and Community Affairs. The development demonstrates

Mr. Robert Onion
Greenland Park Townhomes
October 30, 2002
Page 8 of 8

significant rent savings over other comparable multifamily product in the area and provides the availability of rent and occupancy restricted units. Furthermore, this development is consistent with dispersing affordable housing within metropolitan areas and ending the concentration of affordable housing in generally low-income areas.

Please contact me should you have any questions or need additional information.

Sincerely,



R. Brent Stewart
Development Associate

Cc: Congressman John Culberson
Senator Jon Lindsay
Representative William Callegari
Jim Buie, Executive Director, Texas Bond Review Board
John Henneberger, Texas Low-Income Housing Information Service
Elizabeth Julian



TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS

HOUSING FINANCE DIVISION - MULTIFAMILY

REQUEST FOR BOARD APPROVAL OF MULTIFAMILY MORTGAGE REVENUE BOND ISSUANCE

2002 PRIVATE ACTIVITY MULTIFAMILY REVENUE BONDS

WOODWAY VILLAGE APARTMENTS

\$9,100,000 (*) Tax Exempt – Series 2002

TABLE OF EXHIBITS

TAB 1	TDHCA Board Presentation
TAB 2	Sources & Uses of Funds Estimated Costs of Issuance
TAB 3	Department's Credit Underwriting Analysis
TAB 4	Rental Restrictions Explanation Results & Analysis
TAB 5	Location Map
TAB 6	TDHCA Compliance Report
TAB 7	Results of Public/TEFRA Hearings (October 8, 2002)

() Preliminary - subject to change*

**FINANCE COMMITTEE AND BOARD APPROVAL
MEMORANDUM**

November 14, 2002

- PROJECT:** Woodway Village Apartments, Austin, Texas
- PROGRAM:** Texas Department of Housing & Community Affairs
2002 Private-Activity Multifamily Housing Revenue Bonds
(Reservation received 08/8/02)
- ACTION
REQUESTED:** Approve the issuance of multifamily housing mortgage revenue bonds (the "Bonds") by the Texas Department of Housing and Community Affairs (the "Department"). The Bonds will be issued under Chapter 1371 of the Texas Government Code and under Chapter 2306 of the Texas Government Code, the Department's enabling legislation which authorizes the Department to issue its revenue bonds for its public purposes as defined therein.
- PURPOSE:** The proceeds of the Bonds will be used to fund a mortgage loan (the "Mortgage Loan") to Nuckols Crossing Partners, Ltd, a Texas limited partnership (the "Borrower"), to finance the acquisition, construction, equipping and long-term financing of a new, 160-unit multifamily residential rental project located at 4500 Nuckols Crossing Road, Travis County, Texas 78744 (the "Project"). The Bonds will be tax-exempt by virtue of the Project qualifying as a residential rental project.
- BOND AMOUNT:** \$9,100,000 Series 2002, (the "Bonds") (*)
- (*) The aggregate principal amount of the Bonds will be determined by the Department based on its rules, underwriting, the cost of construction of the Project and the amount for which Bond Counsel can deliver its Bond Opinion.
- ANTICIPATED
CLOSING DATE:** The Department received a volume cap allocation for the Bonds on August 8, 2002 pursuant to the Texas Bond Review Board's 2002 Private Activity Bond Allocation Program. While the Department is required to deliver the Bonds on or before December 6, 2002, the anticipated closing date is December 5, 2002.
- BORROWER:** Nuckols Crossing Partners, Ltd., a Texas limited partnership, the managing general partner of which is Richco Rinehart Investments, L.L.C., a Texas limited liability company, the President of which is Joyce E. Rinehart.
- COMPLIANCE
HISTORY:** A recent Compliance Summary reveals that the principal of the general partner above has a total of six (6) properties being monitored by the Department. Three (3) of these properties have received a compliance score. All of the scores are below the material non-compliance

threshold score of 30.

ISSUANCE TEAM:

Lend Lease Real Mortgage Capital, L.P. (“FNMA DUS Lender/ Loan Servicer”)
Lend Lease Real Estate Investments (“Equity Provider”)
Bank One, National Association (“Construction Lender”)
Fannie Mae (“Credit Facility Provider”)
Newman & Associates, Inc. (“Underwriter”)
Bank One, National Association (“Trustee”)
Vinson & Elkins L.L.P. (“Bond Counsel”)
Dain Rauscher, Inc. (“Financial Advisor”)
McCall, Parkhurst & Horton, L.L.P. (Issuer Disclosure Counsel)

BOND PURCHASER:

The Bonds will be publicly offered for sale on or about November 21, 2001 at which time the final pricing and Bond Purchaser(s) will be determined.

PROJECT DESCRIPTION:

Site: The proposed affordable housing community is a 160-unit multifamily residential rental development to be constructed on approximately 12.1 acres of land located in south-central Austin at the 4500 block of Nuckols Crossing Road, Travis County, Texas 78744

Buildings: The development will include a total of thirty (30) two-story, wood-framed apartment buildings containing approximately 177,434 net rentable square feet and having an average unit size of 1,109 square feet. The units will be constructed to the standards of higher end market units and will feature wall to wall carpeting, washer/dryer connections and a full range of energy efficient appliances including a refrigerator/freezer, range/oven, dishwasher, garbage disposal, and microwave oven. Sixteen units will be constructed to meet the needs of those with disabilities.

<u>Units</u>	<u>Unit Type</u>	<u>Square Feet</u>	<u>Proposed Net Rent</u>
10	1-Bedrooms/1-Baths	782	\$736
6	1-Bedrooms/1-Baths	787	\$736
10	1-Bedrooms/1-Baths	829	\$736
6	1-Bedrooms/1-Baths	831	\$736
16	2-Bedrooms/2-Baths	1,024	\$878
8	2-Bedrooms/2-Baths	1,028	\$878
16	2-Bedrooms/2-Baths	1,053	\$878
8	2-Bedrooms/2-Baths	1,054	\$878
8	2-Bedrooms/2.5-Baths	1,124	\$878
8	2-Bedrooms/2.5-Baths	1,174	\$878
10	3-Bedrooms/2.5-Baths	1,255	\$1,012
2	3-Bedrooms/2.5-Baths	1,271	\$1,012
10	3-Bedrooms/2.5-Baths	1,300	\$1,012
26	3-Bedrooms/2.5-Baths	1,312	\$1,012
14	3-Bedrooms/2.5-Baths	1,321	\$1,012
<u>2</u>	3-Bedrooms/2.5-Baths	1,323	\$1,012
160			

On-site Amenities: There will be a community building that will contain office and leasing space, a day care facility, a computer room for tenant use, a central meeting room for educational programs such as literacy, parenting and GED classes and/or other programs that aid tenant self-improvement. Adjacent to the clubhouse will be a swimming pool. Other amenities will include recreation areas, a children's play area and perimeter fencing.

SET-ASIDE UNITS:

For Bond covenant purposes, forty percent (40%) of the units in the Project will be restricted to occupancy by persons or families earning not more than sixty percent (60%) of the area median income. Five percent (5%) of the units in the Project will be set aside on a priority basis for persons with special needs. For Tax Credit purposes, the Borrower will set-aside 100% of the units at sixty percent (60%) of the area median income.

RENT CAPS:

For Bond covenant purposes, the rental rates on 100% of the units will be restricted to a maximum rent that will not exceed thirty percent (30%) of the income, adjusted for family size, for sixty percent (60%) of the area median income.

TENANT SERVICES:

The Borrower has contracted with Education Based Housing, Inc. to provide a Tenant Services Plan based on the tenant profile upon lease-up that conforms to the Department's program guidelines.

**DEPARTMENT
ORIGINATION
FEES:**

\$1,000 Pre-Application Fee (Paid)
\$10,000 Application Fee (Paid)
\$45,500 Issuance Fee (.50% of the bond amount paid at closing)

**DEPARTMENT
ANNUAL FEES:**

\$9,100 Bond Administration (0.10% of first year bond amount)
\$4,000 Compliance (\$25/unit/year adjusted annually for CPI)

(Department's annual fees may be adjusted, including deferral, to accommodate underwriting criteria and Project cash flow. These fees will be subordinated to the Mortgage Loan and paid outside of the cash flows contemplated by the Indenture)

**ASSET OVERSIGHT
FEE:**

\$4,000 to TSAHC or assigns (\$25/unit/year adjusted annually for CPI)

TAX CREDITS:

The Borrower has applied to the Department to receive a Determination Notice for the 4% tax credit that accompanies the private-activity bond allocation. The tax credit equates to \$600,873 per annum and represents equity for the transaction. To capitalize on the tax credit, the Borrower will sell a substantial portion of the limited partnership, typically 99.9%, to raise equity funds for the project. Although a tax credit sale has not been finalized, the Borrower anticipates raising no less than \$4,867,000 of equity for the transaction.

**BOND STRUCTURE &
SECURITY FOR THE
BONDS:**

The Bonds are proposed to be issued under a Trust Indenture that will

describe the fundamental structure of the Bonds, permitted uses of Bond proceeds and procedures for the administration, investment and disbursement of Bond proceeds and program revenues.

As stated above, the Bonds are being issued to fund a Mortgage Loan to finance the acquisition, construction, equipping and long-term financing of the Project. The Mortgage Loan will be secured by, among other things, a Deed of Trust and other security instruments on the Project. The Mortgage Loan and security instruments will be assigned to the Trustee and Fannie Mae and will become part of the Trust Estate securing the Bonds.

During both the Construction Phase and the Permanent Phase, Fannie Mae will provide a credit enhancement facility for the Mortgage Loan. This stand-by credit facility provides credit enhancement for the Mortgage Loan should the Borrower fail to make any payments under the Mortgage Loan, in which event the Trustee will have the right to require Fannie Mae to fund any payment(s) in default. During the Construction Phase, the Construction Lender will provide a Letter of Credit for the benefit of Fannie Mae to cover the construction and lease-up risk. Upon satisfaction of certain Conditions to Conversion, the Mortgage Loan will convert from the Construction Phase to the Permanent Phase and Fannie Mae will return the Letter of Credit to the Construction Lender.

In addition to the credit enhanced Mortgage Loan, other security for the Bonds during the Construction Phase consists of the net bond proceeds, the revenues and any other moneys received by the Trustee for payment of principal and interest on the Bonds, and amounts otherwise on deposit in the Funds and Accounts (excluding the Rebate Fund, the Fees Account and the Cost of Issuance Fund including within such exclusion investment earnings thereon) and any investment earnings thereon.

The Bonds are mortgage revenue bonds and, as such, create no potential liability for the general revenue fund or any other state fund. The Act provides that the Department's revenue bonds are solely obligations of the Department, and do not create an obligation, debt, or liability of the State of Texas or a pledge or loan of the faith, credit or taxing power of the State of Texas. The only funds pledged by the Department to the payment of the Bonds are the revenues from the financing carried out through the issuance of the Bonds.

BOND INTEREST RATES: The Bonds will bear interest at a fixed rate until maturity which shall be no later than December 15, 2036.

CREDIT ENHANCEMENT: The credit enhancement by Fannie Mae allows for an anticipated rating by the Rating Agency of Aaa and an anticipated interest rate not to exceed 6.0% per annum. Without the credit enhancement, the Bonds would not be investment grade and therefore command a higher interest rate from investors on similar maturity bonds.

FORM OF BONDS:

The Bonds will be issued in book entry form and in denominations of \$5,000 or any multiple of \$5,000.

TERMS OF THE MORTGAGE LOAN:

The Mortgage Loan is a non-recourse obligation of the Borrower, which means, subject to certain exceptions, that the Borrower is not liable for the payment thereof beyond the amount realized from the pledged security. The Mortgage Loan provides for monthly payments of interest during the Construction Phase and level monthly payments of principal and interest for 360 months upon conversion to the Permanent Phase.

During the Construction Phase, the Borrower will be required to make payments on the Mortgage Loan directly to the Trustee (to the extent that capitalized interest funds deposited at closing into the Mortgage Loan Fund are insufficient to make the semi-annual interest payments on the Bonds) along with all other bond and credit enhancement fees. Upon Conversion, the Borrower will be required to pay mortgage payments on the Mortgage Loan to the Loan Servicer, who will remit the principal and interest components of the mortgage payments to the Trustee. The Borrower will continue to pay certain other fees, including the Department's fees, directly to the Trustee.

Effective on the Conversion Date, which is anticipated to occur 24 months from the closing date of the Bonds with one six-month extension option, the Mortgage Loan will convert from the Construction Phase to the Permanent Phase upon satisfaction the conversion requirements set forth in the Fannie Mae credit facility. Among other things, these requirements include completion of the Project according to plans and specifications and achievement of certain occupancy thresholds.

MATURITY/SOURCES & METHODS OF REPAYMENT:

The Bonds will bear interest at a fixed rate until maturity, which shall be no later than December 15, 2036.

The Bonds will be payable from: (1) revenues earned from the Mortgage Loan (which during the Construction Phase will be payable as to interest only); (2) earnings derived from amounts held in Funds & Accounts (discussed below) on deposit in an investment agreement; (3) funds deposited to the Mortgage Loan Fund specifically for capitalized interest during a portion of the Construction Phase; (4) or payments made by Fannie Mae under the credit facility.

If the Borrower fails to make scheduled principal or interest payments on the Mortgage Loan, Fannie Mae is obligated under the credit enhancement agreement to advance such payments. The Borrower is obligated to reimburse Fannie Mae for any moneys advanced by Fannie Mae for payments on the Mortgage Loan.

REDEMPTION OF

**BONDS PRIOR TO
MATURITY:**

The Bonds are subject to redemption under any of the following circumstances:

Optional Redemption:

The Bonds are subject to optional redemption on and after December 15, 2012 when the Bonds will, to the extent optional prepayment of the Mortgage Loan is made pursuant to and as permitted by the terms of the Mortgage Loan Documents, be subject to corresponding optional redemption in whole or in part with a premium reducing each year until December 15, 2014, at which time the Bonds may be optionally redeemed at par.

The Bonds are also subject to optional redemption in connection with a remarketing in accordance with the terms of the Indenture.

Mandatory Redemption:

- (1) The Bonds will be subject to either mandatory sinking fund redemption, or in the case of term bonds, maturity, at par plus accrued and unpaid interest, without premium, on specified dates as specified in the Indenture (subject to change upon pricing of the Bonds).
- (2) The Bonds are subject to special mandatory redemption:
 - (a) in part to the extent that funds remain in the Mortgage Loan Fund that are not required to pay costs of the Project;
 - (b) in whole or in part to the extent that insurance or condemnation proceeds, if any, are not applied to the rebuilding of the Project;
 - (c) in whole or in part upon the occurrence of certain events of default under the documents;
 - (d) in whole if Conversion of the Mortgage Loan does not occur prior to the Termination Date;
 - (e) in part, in the event that the Borrower makes a prepayment on the Mortgage Loan to satisfy conversion requirements;
or,
 - (f) in whole or in part after the Conversion Date, in the event and to the extent that funds remain in the General Account in excess of the minimum required balance after the Trustee has made all other required disbursements.

Purchase of Bonds in Lieu of Redemption:

Subject to certain provisions, Borrower may with the consent of the Credit Provider purchase Bonds with deposits held by the Trustee in any Fund or Account for which the purpose of such moneys is to redeem Bonds. The purchase price of the Bonds can not exceed the applicable redemption price of the Bonds and any such purchase must be completed prior to the time notice would otherwise be required to

be given to redeem the Bonds. All Bonds so purchased shall be canceled by the Trustee and the face amount of the Bonds so purchased shall be applied as a credit against the Issuer's obligation to redeem such Bonds from such deposits.

Special Purchase in Lieu of Redemption:

If the Bonds are called for redemption in whole, and not in part, as a result of either a conversion failure or certain events of default under the documents (during the period that the Letter of Credit from the Interim Lender is in effect), the Bonds may be purchased in lieu of such redemption by the Trustee for the account of the Construction Lender. These "Special Purchase Bonds" do not benefit from the credit enhancement facility and may not be transferred to any other third-party owner without the approval of the Department or receipt of an investment grade rating.

**FUNDS AND
ACCOUNTS/FUNDS
ADMINISTRATION:**

Under the Trust Indenture, Bank One, National Association will serve as registrar and authenticating agent for the Bonds, trustee of certain of the funds created under the Trust Indenture, and will have responsibility for a number of loan administration and monitoring functions.

The Depository Trust Company, New York, New York, will act as securities depository for the Bonds. The Bonds will initially be issued as fully registered securities and when issued will be registered in the name of Cede & Co., as nominee for DTC. One fully registered global bond in the aggregate principal amount of each stated maturity of the Bonds will be deposited with DTC.

Moneys on deposit in Trust Indenture funds are required to be invested in Permitted Investments prescribed in the Trust Indenture until needed for the purposes for which they are held.

The Trust Indenture will create up to five (5) funds with the following general purposes:

1. Mortgage Loan Fund – Consists of a Project Account and Capitalized Interest Account. Bond proceeds will be deposited and withdrawn to pay the costs of construction of the Project including interest on the Bonds during the Construction Phase.
2. Revenue Fund – Consists of a General Account to pay principal and interest on the Bonds. Sub-accounts may be created within the Revenue Fund for redemption provisions, credit facility purposes, and certain ongoing fees.
3. Costs of Issuance Fund – Consists of a Costs of Issuance Deposit Account and a Net Bond Proceeds Account into which funds are deposited and disbursed by the Trustee.

4. Rebate Fund - Fund into which certain investment earnings are transferred that are required to be rebated periodically to the federal government to preserve the tax-exempt status of the Bonds. Amounts in this fund are held apart from the trust estate and are not available to pay debt service on the Bonds.
5. The Bond Purchase Fund – Consists of a Remarketing Proceeds Account to pay the purchase price of Bonds purchased under the Trust Indenture to the former owners of such Bonds upon presentation of the Bonds to the Trustee, and a Remarketing Expenses Account to pay Remarketing Expenses upon presentation of sufficient documentation.

Essentially, all of the bond proceeds will be deposited into the Mortgage Loan Fund and disbursed therefrom during the Construction Phase (over 18 to 24 months) to finance the construction of the Project.

**DEPARTMENT
ADVISORS:**

The following advisors have been selected by the Department to perform the indicated tasks in connection with the issuance of the Bonds.

1. Bond Counsel - Vinson & Elkins L.L.P. ("V&E") was most recently selected to serve as the Department's bond counsel through a request for proposals ("RFP") issued by the Department in August 17, 2001. V&E has served in such capacity for all Department or Agency bond financings since 1980, when the firm was selected initially (also through an RFP process) to act as Agency bond counsel.
2. Bond Trustee – Bank One, National Association was selected as bond trustee by the Department pursuant to a request for proposals process in June 1996.
3. Financial Advisor – RBC Dain Rauscher Inc., formerly Rauscher Pierce Refsnes, was selected by the Department as the Department's financial advisor through a request for proposals process in September 1991.
4. Disclosure Counsel – McCall, Parkhurst & Horton, L.L.P. was selected by the Department as Disclosure Counsel through a request for proposals process in 1998.

**ATTORNEY GENERAL
REVIEW OF BONDS:**

No preliminary written review of the Bonds by the Attorney General of Texas has yet been made. Department bonds, however, are subject to the approval of the Attorney General, and transcripts of proceedings with respect to the Bonds will be submitted for review and approval prior to the issuance of the Bonds.

RESOLUTION NO. 02-60

RESOLUTION AUTHORIZING AND APPROVING THE ISSUANCE, SALE AND DELIVERY OF MULTIFAMILY HOUSING REVENUE BONDS (WOODWAY VILLAGE APARTMENTS) SERIES 2002; APPROVING THE FORM AND SUBSTANCE AND AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS AND INSTRUMENTS PERTAINING THERETO; AUTHORIZING AND RATIFYING OTHER ACTIONS AND DOCUMENTS; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, the Texas Department of Housing and Community Affairs (the "Department") has been duly created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code, as amended (the "Act"), for the purpose, among others, of providing a means of financing the costs of residential ownership, development and rehabilitation that will provide decent, safe, and affordable living environments for individuals and families of low and very low income (as defined in the Act) and families of moderate income (as described in the Act and determined by the Governing Board of the Department (the "Board") from time to time); and

WHEREAS, the Act authorizes the Department: (a) to make mortgage loans to housing sponsors to provide financing for multifamily residential rental housing in the State of Texas (the "State") intended to be occupied by individuals and families of low and very low income and families of moderate income, as determined by the Department; (b) to issue its revenue bonds, for the purpose, among others, of obtaining funds to make such loans and provide financing, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, receipts or resources of the Department, including the revenues and receipts to be received by the Department from such multi-family residential rental project loans, and to mortgage, pledge or grant security interests in such loans or other property of the Department in order to secure the payment of the principal or redemption price of and interest on such bonds; and

WHEREAS, the Board has determined to authorize the issuance of the Texas Department of Housing and Community Affairs Multifamily Housing Revenue Bonds (Woodway Village Apartments) Series 2002 (the "Bonds"), pursuant to and in accordance with the terms of a Trust Indenture (the "Indenture") by and between the Department and Bank One, National Association (the "Trustee"), for the purpose of obtaining funds to finance the Project (defined below), all under and in accordance with the Constitution and laws of the State of Texas; and

WHEREAS, the Department desires to use the proceeds of the Bonds to fund a mortgage loan to Nuckols Crossing Partners, Ltd., a Texas limited partnership (the "Borrower"), in order to finance the cost of acquisition, construction and equipping of a qualified residential rental project described on Exhibit A attached hereto (the "Project") located within the State of Texas required by the Act to be occupied by individuals and families of low and very low income and families of moderate income, as determined by the Department; and

WHEREAS, the Board, by resolution adopted on October 17, 2001, declared its intent to issue its revenue bonds to provide financing for the Project; and

WHEREAS, it is anticipated that the Department, the Borrower and the Trustee will execute and deliver a Financing Agreement (the "Financing Agreement") pursuant to which (i) the Department will agree to make a mortgage loan funded with the proceeds of the Bonds (the "Mortgage Loan") to the Borrower to enable the Borrower to finance the cost of acquisition and construction of the Project and related costs, and (ii) the Borrower will execute and deliver to the Department a multifamily note (the

“Mortgage Note”) in an original principal amount equal to the original aggregate principal amount of the Bonds, and providing for payment of interest on such principal amount equal to the interest on the Bonds and to pay other costs described in the Financing Agreement; and

WHEREAS, it is anticipated that credit enhancement for the Mortgage Loan will be provided for initially by a Credit Enhancement Instrument (Stand-By) issued by Federal National Mortgage Association (“Fannie Mae”); and

WHEREAS, it is anticipated that the Mortgage Note will be secured by a Multifamily Deed of Trust, Assignment of Rents and Security Agreement and Fixture Filing (the “Mortgage”) from the Borrower for the benefit of the Department and Fannie Mae; and

WHEREAS, the Department’s interest in the Mortgage Loan, including the Mortgage Note and the Mortgage, will be assigned to the Trustee, as its interests may appear, and to Fannie Mae, as its interests may appear, pursuant to an Assignment and Intercreditor Agreement (the “Assignment”) among the Department, the Trustee and Fannie Mae and acknowledged, accepted and agreed to by the Borrower; and

WHEREAS, the Board has determined that the Department, the Trustee and the Borrower will execute a Regulatory and Land Use Restriction Agreement (the “Regulatory Agreement”), with respect to the Project which will be filed of record in the real property records Travis County; and

WHEREAS, the Board has been presented with a draft of, has considered and desires to ratify, approve, confirm and authorize the use and distribution in the public offering of the Bonds of a Preliminary Official Statement (the “Preliminary Official Statement”) and to authorize the authorized representatives of the Department to deem the Preliminary Official Statement “final” for purposes of Rule 15c2-12 of the Securities and Exchange Commission and to approve the making of such changes in the Preliminary Official Statement as may be required to provide a final Official Statement (the “Official Statement”) for use in the public offering and sale of the Bonds; and

WHEREAS, the Board has further determined that the Department will enter into a Bond Purchase Agreement (the “Bond Purchase Agreement”) with the Borrower, Newman & Associates, Inc. (the “Underwriter”) and any other parties to such Bond Purchase Agreement, setting forth certain terms and conditions upon which the Underwriter will purchase the Bonds from the Department and the Department will sell the Bonds to the Underwriter and any other parties to such Bond Purchase Agreement; and

WHEREAS, the Board has examined proposed forms of the Indenture, the Financing Agreement, the Assignment, the Regulatory Agreement, the Preliminary Official Statement and the Bond Purchase Agreement, all of which are attached to and comprise a part of this Resolution; has found the form and substance of such documents to be satisfactory and proper and the recitals contained therein to be true, correct and complete; and has determined, subject to the conditions set forth in Section 1.13, to authorize the issuance of the Bonds, the execution and delivery of such documents and the taking of such other actions as may be necessary or convenient in connection therewith;

NOW, THEREFORE,

BE IT RESOLVED BY THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS:

ARTICLE I

ISSUANCE OF BONDS; APPROVAL OF DOCUMENTS

Section 1.1--Issuance, Execution and Delivery of the Bonds. That the issuance of the Bonds is hereby authorized, under and in accordance with the conditions set forth herein and in the Indenture, and that, upon execution and delivery of the Indenture, the authorized representatives of the Department named in this Resolution each are authorized hereby to execute, attest and affix the Department's seal to the Bonds and to deliver the Bonds to the Attorney General of the State of Texas for approval, the Comptroller of Public Accounts of the State of Texas for registration and the Trustee for authentication (to the extent required in the Indenture), and thereafter to deliver the Bonds to the order of the Underwriter pursuant to the Bond Purchase Agreement.

Section 1.2--Interest Rate, Principal Amount, Maturity and Price. That the Chairman of the Board or the Executive Director of the Department are hereby authorized and empowered, in accordance with Chapter 1371, Texas Government Code, to fix and determine the interest rate, principal amount and maturity of, the redemption provisions related to, and the price at which the Department will sell to the Underwriter, the Bonds, all of which determinations shall be conclusively evidenced by the execution and delivery by the Chairman of the Governing Board or the Executive Director of the Department of the Indenture, the Bond Purchase Agreement and the Official Statement; provided, however, that: (i) the net effective interest rate on the Bonds shall not exceed 6.0% per annum; (ii) the aggregate principal amount of the Bonds shall not exceed \$9,100,000; (iii) the final maturity of the Bonds shall occur not later than December 15, 2036; (iv) the purchase price of the Bonds paid by the Underwriter shall not exceed 103% of the principal amount of the Bonds, and (v) the fee paid to the Underwriter in connection with the marketing of the Bonds shall not exceed the amount approved by the Texas Bond Review Board.

Section 1.3--Approval, Execution and Delivery of the Indenture. That the form and substance of the Indenture are hereby approved, and that the authorized representatives of the Department named in this Resolution each are authorized hereby to execute, attest and affix the Department's seal to the Indenture and to deliver the Indenture to the Trustee.

Section 1.4--Approval, Execution and Delivery of the Financing Agreement and Regulatory Agreement. That the form and substance of the Financing Agreement and the Regulatory Agreement are hereby approved, and that the authorized representatives of the Department named in this Resolution each are authorized hereby to execute, attest and affix the Department's seal to the Financing Agreement and the Regulatory Agreement and deliver the Financing Agreement and the Regulatory Agreement to the Borrower and the Trustee.

Section 1.5--Approval, Execution and Delivery of the Bond Purchase Agreement. That the sale of the Bonds to the Underwriter and any other party to the Bond Purchase Agreement is hereby approved, that the form and substance of the Bond Purchase Agreement are hereby approved, and that the authorized representatives of the Department named in this Resolution each are authorized hereby to execute, attest and affix the Department's seal to the Bond Purchase Agreement and to deliver the Bond Purchase Agreement to the Borrower and the Underwriter and any other party to the Bond Purchase Agreement.

Section 1.6--Acceptance of the Mortgage and Mortgage Note. That the Mortgage and the Mortgage Note are hereby accepted by the Department and that the authorized representatives of the Department named in this Resolution each are authorized to endorse and deliver the Mortgage Note to the order of the Trustee and Fannie Mae, as their interests may appear, without recourse.

Section 1.7--Approval, Execution and Delivery of the Assignment. That the form and substance of the Assignment are hereby approved; and that the officers of the Department are each hereby authorized to execute, attest and affix the Department's seal to the Assignment and to deliver the Assignment to the Trustee, Fannie Mae and the Borrower.

Section 1.8--Approval, Execution, Use and Distribution of the Preliminary Official Statement and the Official Statement. That the form and substance of the Preliminary Official Statement and its use and distribution by the Underwriter in accordance with the terms, conditions and limitations contained therein are hereby approved, ratified, confirmed and authorized; that the Chairman and the Executive Director are hereby severally authorized to deem the Preliminary Official Statement "final" for purposes of Rule 15c2-12 of the Securities and Exchange Commission; that the authorized representatives of the Department named in this Resolution each are authorized hereby to make or approve such changes in the Preliminary Official Statement as may be required to provide a final Official Statement for the Bonds; that the authorized representatives of the Department named in this Resolution each are authorized hereby to execute, attest and affix the Department's seal to the Preliminary Official Statement and the Official Statement, as required; and that the distribution and circulation of the Official Statement by the Underwriter hereby is authorized and approved, subject to the terms, conditions and limitations contained therein, and further subject to such amendments or additions thereto as may be required by the Bond Purchase Agreement and as may be approved by the Executive Director of the Department and the Department's counsel.

Section 1.9--Taking of Any Action; Execution and Delivery of Other Documents. That the authorized representatives of the Department named in this Resolution each are authorized hereby to take any actions and to execute, attest and affix the Department's seal to, and to deliver to the appropriate parties, all such other agreements, commitments, assignments, bonds, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, notices of acceptance, written requests and other papers, whether or not mentioned herein, as they or any of them consider to be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution.

Section 1.10--Exhibits Incorporated Herein. That all of the terms and provisions of each of the documents listed below as an exhibit shall be and are hereby incorporated into and made a part of this Resolution for all purposes:

- Exhibit B - Indenture
- Exhibit C - Financing Agreement
- Exhibit D - Regulatory Agreement
- Exhibit E - Bond Purchase Agreement
- Exhibit F - Assignment
- Exhibit G - Preliminary Official Statement

Section 1.11--Power to Revise Form of Documents. That notwithstanding any other provision of this Resolution, the authorized representatives of the Department named in this Resolution each are authorized hereby to make or approve such revisions in the form of the documents attached hereto as exhibits as, in the judgment of such authorized representative or authorized representatives, and in the opinion of Vinson & Elkins L.L.P., Bond Counsel to the Department, may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, such approval to be evidenced by the execution of such documents by the authorized representatives of the Department named in this Resolution.

Section 1.12--Authorized Representatives. That the following persons are each hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the

Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article I: Chairman and Vice Chairman of the Board, Executive Director of the Department, Acting Executive Director, Deputy Executive Director of the Department, Chief Financial Officer of the Department, Director of Bond Finance, Director of Multifamily Finance of the Department, the Secretary of the Board, and the Assistant Secretary of the Board.

Section 1.13--Conditions Precedent. That the issuance of the Bonds shall be further subject to, among other things: (a) the Project's meeting all underwriting criteria of the Department, to the satisfaction of the Executive Director; and (b) the execution by the Borrower and the Department of contractual arrangements satisfactory to the Department staff requiring that community service programs will be provided at the Project.

ARTICLE II

APPROVAL AND RATIFICATION OF CERTAIN ACTIONS

Section 2.1--Approval and Ratification of Application to Texas Bond Review Board. That the Board hereby ratifies and approves the submission of the application for approval of state bonds to the Texas Bond Review Board on behalf of the Department in connection with the issuance of the Bonds in accordance with Chapter 1231, Texas Government Code.

Section 2.2--Approval of Submission to the Attorney General of Texas. That the Board hereby authorizes, and approves the submission by the Department's Bond Counsel to the Attorney General of the State of Texas, for his approval, of a transcript of legal proceedings relating to the issuance, sale and delivery of the Bonds.

Section 2.3--Engagement of Other Professionals. That the Executive Director of the Department or any successor is authorized to engage auditors to perform such functions, audits, yield calculations and subsequent investigations as necessary or appropriate to comply with the Bond Purchase Agreement and the requirements of Bond Counsel to the Department, provided such engagement is done in accordance with applicable law of the State of Texas.

Section 2.4--Certification of the Minutes and Records. That the Secretary and the Assistant Secretary of the Board hereby are severally authorized to certify and authenticate minutes and other records on behalf of the Department for the Bonds and all other Department activities.

Section 2.5--Approval of Requests for Rating from Rating Agency. That the action of the Executive Director of the Department or any successor and the Department's consultants in seeking a rating from Moody's Investors Service, Inc. and/or Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., is approved, ratified and confirmed hereby.

Section 2.6--Authority to Invest Proceeds. That the Department is authorized to invest and reinvest the proceeds of the Bonds and the fees and revenues to be received in connection with the financing of the Project in accordance with the Indenture and to enter into any agreements relating thereto only to the extent permitted by the Indenture.

Section 2.7--Underwriter. That the underwriter with respect to the issuance of the Bonds shall be Newman & Associates, Inc.

Section 2.8--Approving Initial Rents. That the initial maximum rent charged by the Borrower for 100% of the units of the Project shall not exceed the amounts attached as Exhibit H to the Regulatory

Agreement and shall be annually redetermined by the Issuer as stated in Section 4(b) of the Regulatory Agreement.

Section 2.9--Ratifying Other Actions. That all other actions taken by the Executive Director of the Department and the Department staff in connection with the issuance of the Bonds and the financing of the Project are hereby ratified and confirmed.

ARTICLE III

CERTAIN FINDINGS AND DETERMINATIONS

Section 3.1--Findings of the Board. That in accordance with Section 2306.223 of the Act, and after the Department's consideration of the information with respect to the Project and the information with respect to the proposed financing of the Project by the Department, including but not limited to the information submitted by the Borrower, independent studies commissioned by the Department, recommendations of the Department staff and such other information as it deems relevant, the Board hereby finds:

(a) Need for Housing Development.

(i) that the Project is necessary to provide needed decent, safe, and sanitary housing at rentals or prices that individuals or families of low and very low income or families of moderate income can afford,

(ii) the Borrower will supply well-planned and well-designed housing for individuals or families of low and very low income or families of moderate income,

(iii) the Borrower is financially responsible,

(iv) the financing of the Project is a public purpose and will provide a public benefit, and

(v) the Project will be undertaken within the authority granted by the Act to the housing finance division and the Borrower.

(b) Findings with Respect to the Borrower.

(i) that the Borrower, by operating the Project in accordance with the requirements of the Regulatory Agreement, will comply with applicable local building requirements and will supply well-planned and well-designed housing for individuals or families of low and very low income or families of moderate income, and

(ii) that the Borrower is financially responsible and has entered into a binding commitment to repay the loan made with the proceeds of the Bonds in accordance with its terms.

(iii) that the Borrower is not, or will not enter into a contract for the Project with, a housing developer that: (A) is on the Department's debarred list, including any parts of that list that are derived from the debarred list of the United States Department of Housing and Urban Development; (B) breached a contract with a public agency; or (C) misrepresented to a subcontractor the extent to which the developer has benefited from contracts or financial assistance that has been awarded by a public agency, including the scope of the developer's

participation in contracts with the agency and the amount of financial assistance awarded to the developer by the Department.

(c) Public Purpose and Benefits.

(i) that the Borrower has agreed to operate the Project in accordance with the Financing Agreement and the Regulatory Agreement, which require, among other things, that the Project be occupied by individuals and families of low and very low income and families of moderate income, and

(ii) that the issuance of the Bonds to finance the Project is undertaken within the authority conferred by the Act and will accomplish a valid public purpose and will provide a public benefit by assisting individuals and families of low and very low income and families of moderate income in the State of Texas to obtain decent, safe, and sanitary housing by financing the costs of the Project, thereby helping to maintain a fully adequate supply of sanitary and safe dwelling accommodations at rents that such individuals and families can afford.

Section 3.2--Determination of Eligible Tenants. That the Board has determined, to the extent permitted by law and after consideration of such evidence and factors as its deems relevant, the findings of the staff of the Department, the laws applicable to the Department and the provisions of the Act, that eligible tenants for the Project shall be (1) individuals and families of low and very low income, (2) persons with special needs, and (3) families of moderate income, with the income limits as set forth in the Financing Agreement and the Regulatory Agreement.

Section 3.3--Sufficiency of Mortgage Loan Interest Rate. That the Board hereby finds and determines that the interest rate on the loan established pursuant to the Financing Agreement will produce the amounts required, together with other available funds, to pay for the Department's costs of operation with respect to the Bonds and the Project and enable the Department to meet its covenants with and responsibilities to the holders of the Bonds.

Section 3.4--No Gain Allowed. That, in accordance with Section 2306.498 of the Act, no member of the Board or employee of the Department may purchase any Bond in the secondary open market for municipal securities.

Section 3.5--Waiver of Rules. That the Board hereby waives the rules contained in Section 39, Title 10 of the Texas Administrative Code to the extent such rules are inconsistent with the terms of this Resolution and the bond documents authorized hereunder.

ARTICLE IV

GENERAL PROVISIONS

Section 4.1--Limited Obligations. That the Bonds and the interest thereon shall be limited obligations of the Department payable solely from the trust estate created under the Indenture, including the revenues and funds of the Department pledged under the Indenture to secure payment of the Bonds and under no circumstances shall the Bonds be payable from any other revenues, funds, assets or income of the Department.

Section 4.2--Non-Governmental Obligations. That the Bonds shall not be and do not create or constitute in any way an obligation, a debt or a liability of the State of Texas or create or constitute a pledge, giving or lending of the faith or credit or taxing power of the State of Texas. Each Bond shall

contain on its face a statement to the effect that the State of Texas is not obligated to pay the principal thereof or interest thereon and that neither the faith or credit nor the taxing power of the State of Texas is pledged, given or loaned to such payment.

Section 4.3--Effective Date. That this Resolution shall be in full force and effect from and upon its adoption.

Section 4.4--Notice of Meeting. Written notice of the date, hour and place of the meeting of the Board at which this Resolution was considered and of the subject of this Resolution was furnished to the Secretary of State and posted on the Internet for at least seven (7) days preceding the convening of such meeting; that during regular office hours a computer terminal located in a place convenient to the public in the office of the Secretary of State was provided such that the general public could view such posting; that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof was discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended; and that written notice of the date, hour and place of the meeting of the Board and of the subject of this Resolution was published in the Texas Register at least seven (7) days preceding the convening of such meeting, as required by the Administrative Procedure and Texas Register Act, Chapters 2001 and 2002, Texas Government Code, as amended. Additionally, all of the materials in the possession of the Department relevant to the subject of this Resolution were sent to interested persons and organizations, posted on the Department's website, made available in hard-copy at the Department, and filed with the Secretary of State for publication by reference in the Texas Register not later than seven (7) days before the meeting of the Board as required by Section 2306.032, Texas Government Code, as amended.

PASSED AND APPROVED this 14th day of November, 2002.

Chairman

Attest:

Secretary

EXHIBIT A

DESCRIPTION OF PROJECT

Owner: Nuckols Crossing Partners, Ltd., a Texas limited partnership

Project: The Project is a 160-unit multifamily facility to be known as Woodway Village Apartments and to be located at 4500 Nuckols Crossing Road in Austin, Travis County, Texas. The Project will include a total of 30 (2) two-story residential apartment buildings with approximately 177,434 net rentable square feet and an approximate average unit size of 1,109 square feet. The unit mix will consist of:

32 one-bedroom/one-bath units
48 two-bedroom/two-bath units
16 two-bedroom/two and one-half bath units
64 three-bedroom/two and one-half bath units

160 Total Units

Unit sizes will range from approximately 782 square feet to approximately 1,323 square feet.

The Project will include a clubhouse with offices, a community room, a library, a computer recreation center, a laundry room, kitchen facilities, and public restrooms. On-site amenities will include a swimming pool, a children's play area, playground equipment, and a picnic area. All ground units will be wheelchair accessible with 10% of the units equipped for persons with mobility impairments and all individual units will have washer/dryer connections.

Woodway Village

Estimated Sources & Uses of Funds

Sources of Funds

Bond Proceeds, Series 2002 Bonds (Tax-Exempt)	\$ 9,100,000
LIHTC Equity	5,468,073
Interest Income	-
Soft Financing	-
Deferred Developer's Fee	1,016,363
Total Sources	\$ 15,584,436

Uses of Funds

Deposit to Mortgage Loan Fund (Construction funds)	\$ 12,069,607
Capitalized Interest (Constr. & LOC Interest)	674,613
Marketing	-
Developer's Overhead, Fee and Note	1,850,810
Costs of Issuance	
Direct Bond Related	312,575
Bond Purchaser Costs	151,500
Other Transaction Costs	380,331
Real Estate Closing Costs	145,000
Total Uses	\$ 15,584,436

Estimated Costs of Issuance of the Bonds

Direct Bond Related

TDHCA Issuance Fee (.50% of Issuance)	\$ 45,500
TDHCA Application Fee	11,000
TDHCA Bond Compliance Fee (\$25 per unit)	4,000
TDHCA Bond Counsel and Direct Expenses (Note 1)	80,000
TDHCA Financial Advisor and Direct Expenses	25,000
Disclosure Counsel (\$5k Pub. Offered, \$2.5k Priv. Placed. See Note 1)	5,000
Investment Banking Fees and Expenses	68,250
Underwriter's Counsel	25,000
Printing and Mailing of POS and OP	6,500
Rating Agency	11,000
Cash Flow Verification and Miscellaneous	10,000
Trustee's Fees (Note 1)	8,050
Trustee's Counsel (Note 1)	5,500
Attorney General Transcript Fee (\$1,250 per series, max. of 2 series)	1,250
Texas Bond Review Board Application Fee	500
Texas Bond Review Board Issuance Fee (.025% of Reservation)	2,275
TEFRA Hearing Publication Expenses	3,750
Total Direct Bond Related	\$ 312,575

Bond Purchase Costs

Fannie Mae DUS Lender's Fees (Lend Lease @1%)	91,000
Fannie Mae DUS Lender's Counsel	25,000

Woodway Village

Fannie Mae Bond Purchaser's Counsel	2,500
Fannie Mae's Outside Counsel	33,000
Total	\$ 151,500

Other Transaction Costs

Letter of Credit Origination Fee (Bank of America @ 2% of Issuance)	182,000
Construction Lender's Counsel	20,000
Tax Credit Determination Fee (4% annual tax cr.)	27,003
Tax Credit Application Fee (\$15/u)	2,400
Tax Credit Syndicator Fees & Expenses	43,928
Tax Credit Investor's Counsel	20,000
Limited Partner Counsel	35,000
Borrower's Counsel	50,000
Total	\$ 380,331

Real Estate Closing Costs

Title & Recording (Const.& Perm.)	25,000
Property Taxes	120,000
Total Real Estate Costs	\$ 145,000

Estimated Total Costs of Issuance

\$ 989,406

Costs of issuance of up to two percent (2%) of the principal amount of the Bonds may be paid from Bond proceeds. Costs of issuance in excess of such two percent must be paid by an equity contribution of the Borrower.

Note 1: These estimates do not include direct, out-of-pocket expenses (i.e. travel). Actual Bond Counsel and Disclosure Counsel are based on an hourly rate and the above estimate does not include on-going administrative fees.

TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTI FAMILY CREDIT UNDERWRITING ANALYSIS

DATE: November 4, 2002 **PROGRAM:** MFB **FILE NUMBER:** 2002-045
4% LIHTC 02444

DEVELOPMENT NAME

Woodway Village Apartments

APPLICANT

Name: Nuckols Crossing Partners, Ltd. **Type:** For Profit Non-Profit Municipal Other
Address: 6363 Woodway, Suite 320 **City:** Houston **State:** TX
Zip: 77057 **Contact:** Joyce Rinehart **Phone:** (713) 914-9200 **Fax:** (713) 914-9292

PRINCIPALS of the APPLICANT

Name: <u>Richco Rinehart Investments, LLC (RRI)</u>	(%): <u>.00051</u>	Title: <u>51% Co-General Partner</u>
Name: <u>Blazer Residential, Inc. (BRI)</u>	(%): <u>.00049</u>	Title: <u>49% Co-General Partner</u>
Name: <u>Lend Lease Real Estate Investments</u>	(%): <u>99.99</u>	Title: <u>Initial Limited Partner</u>
Name: <u>Joyce Rinehart</u>	(%): <u>N/A</u>	Title: <u>25% owner of RRI</u>
Name: <u>Anne Richardson</u>	(%): <u>N/A</u>	Title: <u>25% owner of RRI</u>
Name: <u>Christan Richardson</u>	(%): <u>N/A</u>	Title: <u>25% owner of RRI</u>
Name: <u>Leslie Richardson</u>	(%): <u>N/A</u>	Title: <u>25% owner of RRI</u>
Name: <u>Chris Richardson</u>	(%): <u>N/A</u>	Title: <u>100% owner of BRI</u>

GENERAL PARTNER

Name: Richco Rinehart Investments, LLC **Type:** For Profit Non-Profit Municipal Other
Address: 6363 Woodway, Suite 320 **City:** Houston **State:** TX
Zip: 77057 **Contact:** Joyce Rinehart **Phone:** (713) 914-9200 **Fax:** (713) 914-9292

CO-GENERAL PARTNER

Name: Blazer Residential, Inc. **Type:** For Profit Non-Profit Municipal Other
Address: 6363 Woodway, Suite 320 **City:** Houston **State:** TX
Zip: 77057 **Contact:** Chris Richardson **Phone:** (713) 914-9200 **Fax:** (713) 914-9292

PROPERTY LOCATION

Location: 4500-4510 Nuckol's Crossing Road **QCT** **DDA**
City: Austin **County:** Travis **Zip:** 78744

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS**

REQUEST			
<u>Amount</u>	<u>Interest Rate</u>	<u>Amortization</u>	<u>Term</u>
1. \$9,100,000	6.35%	30 yrs	30 yrs
2. \$662,114	N/A	N/A	N/A
Other Requested Terms:	1. Tax-exempt private activity multifamily mortgage revenue bonds 2. Annual ten-year allocation of low-income housing tax credits		
Proposed Use of Funds:	<u>New construction</u>		

SITE DESCRIPTION			
Size:	<u>12.153</u> acres	<u>529,385</u> square feet	Zoning/ Permitted Uses: MF-2-CO, Multifamily-Residence-Low Density-Conditional Overlay Combining District & SF-2, Single-Family Residence
Flood Zone Designation:	<u>Zone X</u>	Status of Off-Sites:	<u>Partially improved</u>

DESCRIPTION of IMPROVEMENTS			
Total Units:	<u>160</u>	# Rental Buildings:	<u>30</u>
# Common Area Bldgs:	<u>1</u>	# of Floors:	<u>2</u>
Age:	<u>0</u> yrs	Vacant:	<u>N/A</u> at / /

Number	Bedrooms	Bathroom	Size in SF
32	1	1	782-831
64	2	2-2.5	1,024-1,174
64	3	2.5	1,255-1,323

Net Rentable SF: 177,434 **Av Un SF:** 1,109 **Common Area SF:** 5,040 **Gross Bldng SF** 182,474

Property Type: Multifamily SFR Rental Elderly Mixed Income Special Use

CONSTRUCTION SPECIFICATIONS	
STRUCTURAL MATERIALS	
Wood frame on a post-tensioned concrete slab on grade, 66% stucco/33% cement fiber siding exterior wall covering with wood trim, drywall interior wall surfaces, composite shingle roofing	
APPLIANCES AND INTERIOR FEATURES	
Carpeting & vinyl flooring, range & oven, hood & fan, garbage disposal, dishwasher, refrigerator, microwave oven, tile tub/shower, washer & dryer connections, ceiling fans, laminated counter tops, individual water heaters	
ON-SITE AMENITIES	
5,040-SF community building with activity rooms, management offices, laundry facilities, kitchens, restrooms, computer center, daycare facility, & central mailroom; swimming pool, equipped children's play area, perimeter fencing with limited access gate	
Uncovered Parking:	<u>176</u> spaces
Carports:	<u>0</u> spaces
Garages:	<u>160</u> spaces

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS**

OTHER SOURCES of FUNDS

INTERIM CONSTRUCTION or GAP FINANCING

Source: Lend Lease Mortgage Capital, L.P. **Contact:** Marie Keutmann
Principal Amount: \$9,100,000* **Interest Rate:** 6.35%
Additional Information: Based on tax-exempt bond proceeds, *commitment in amount of \$8,700,000 with earn-out option to \$9,100,000
Amortization: N/A yrs **Term:** 24 yrs **Commitment:** None Firm Conditional

LONG TERM/PERMANENT FINANCING

Source: Lend Lease Mortgage Capital, L.P. **Contact:** Marie Keutmann
Principal Amount: \$9,100,000 **Interest Rate:** 6.35%
Additional Information: Based on tax-exempt bond proceeds, *commitment in amount of \$8,700,000 with earn-out option to \$9,100,000
Amortization: 30 yrs **Term:** 30 yrs **Commitment:** None Firm Conditional
Annual Payment: \$679,481 **Lien Priority:** 1st **Commitment Date** 8/ 7/ 2002

LIHTC SYNDICATION

Source: Lend Lease Real Estate Investments **Contact:** Marie Keutmann
Address: 101 Arch Street **City:** Boston
State: MA **Zip:** 02110 **Phone:** (617) 772-0319 **Fax:** (617) 439-9978
Net Proceeds: \$4,867,000 **Net Syndication Rate (per \$1.00 of 10-yr LIHTC)** 81¢
Commitment None Firm Conditional **Date:** 9/ 3/ 2002
Additional Information: Based on annual credits of \$600,873

APPLICANT EQUITY

Amount: \$1,334,259 **Source:** Deferred developer fee

VALUATION INFORMATION

ASSESSED VALUE

Land: \$319,570 **Assessment for the Year of:** 2002
Buildings: \$52,358 **Valuation by:** Travis County Appraisal District
Total Assessed Value: \$371,928

EVIDENCE of SITE or PROPERTY CONTROL

Type of Site Control: Three earnest money contracts for three tracts
Contract Expiration Date: As mutually agreed **Anticipated Closing Date:** 11/ 30/ 2002
Acquisition Cost: \$ 1,050,000 **Other Terms/Conditions:** \$4,500 earnest money
Sellers: George Sloan, Bobby & Joe Pospisil **Related to Development Team Member:** No

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS**

REVIEW of PREVIOUS UNDERWRITING REPORTS

This development was submitted and partially underwritten in the 2001 9% LIHTC cycle. The draft underwriting analysis recommended the development be approved subject to the following conditions:

- Receipt, review, and acceptance of a revised site plan or rent schedule that have consistent unit mixes;
- Receipt, review, and acceptance of documentation from the City of Austin that rezoning of the site has been approved and is in conformance with the proposed multifamily development;
- Receipt, review, and acceptance of a third party architect or engineer's detailed cost breakdown for all sitework costs, including costs per unit and numbers of units required, and a letter from a third party certified public accountant identifying which portions of the proposed site work costs should be included in eligible basis in keeping with the holding of the Internal Revenue Service Technical Advice Memoranda. Should such an evaluation result in an eligible sitework cost other than \$1,474,500, then a reevaluation and adjustment to the recommended credit allocation should be made.

PROPOSAL and DEVELOPMENT PLAN DESCRIPTION

Description: Woodway Village Apartments is a proposed new construction development of 160 units of affordable housing located in southeast Austin. The development is comprised of 30 two-story residential buildings as follows:

- Four Building Type I with four one-bedroom units and two three-bedroom units;
- Four Building Type II with four one-bedroom units and two three-bedroom units;
- Eight Building Type III with four two-bedroom units and two three-bedroom units;
- Four Building Type IV with four two-bedroom units and two three-bedroom units;
- Four Building Type V with four two-bedroom units; and
- Six Building Type VI with four three-bedroom units.

Eighty of the units will be one-story flats and will be stacked on the ends of 20 of the buildings. The other 80 units will be two-story townhouse units which will be placed in the center of all buildings and on the ends of ten buildings. Based on the site plan the apartment buildings are distributed evenly throughout the site, with the community building, swimming pool, and playground located near the entrance to the site. The 5,040-square foot community building plan is designed as a 2,752-SF daycare wing and a 2,288-SF amenity center wing on either side of a central breezeway. The amenity center wing includes the management offices, a 468-SF community room, mailroom, vending area, kitchen, restrooms, and maintenance and laundry facilities. The daycare wing includes age-segregated activity rooms, a computer center, two sets of restrooms, a kitchen, sickroom, and director's office. Large stormwater detention/filtration ponds are to be located at the northern and southern boundaries.

Supportive Services: The Applicant has contracted with Education-Based Housing, Inc. to provide the following supportive services to tenants: career counseling, workforce development training, basic skills tutoring, ESL classes, GED preparation classes, parenting classes, after-school activities for children, and information and referral services for other local service providers. These services will be provided at no cost to tenants. The contract requires the Applicant to provide, furnish, and maintain facilities in the community building for provision of the services, to pay a one-time startup fee of \$1,000 plus \$1,500 per month for these support services.

Schedule: The Applicant anticipates construction to begin in March of 2003, to be completed in May of 2004, to be placed in service and substantially leased-up in September of 2004.

POPULATIONS TARGETED

Income Set-Aside: The Applicant has elected the 40% at 60% or less of area median gross income (AMGI) set-aside, although as a Priority 2 private activity bond lottery project 100% of the units must have rents restricted to be affordable to households at or below 60% of AMGI.

Special Needs Set-Asides: Sixteen units (10%) will be handicapped-accessible.

Compliance Period Extension: The intended length of the compliance period was not specified in the submitted application, however, all LIHTC-funded developments must maintain a 30-year affordability period.

TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS

MARKET HIGHLIGHTS

A market feasibility study dated August 29, 2002 was prepared by Capitol Market Research, Inc. and highlighted the following findings:

Definition of Market/Submarket: “The market area defined for this project is most appropriately defined as the south central Austin submarket, delineated generally by U.S. Highway 290 on the north, U.S. Highway 183 on the east, FM 1826 on the west, and the Travis County line on the south.” (p. 19) The Underwriter regards the exclusion of the area between Highway 71 and the Colorado River and the inclusion of areas west of Loop 1 (MOPAC) as unrealistic.

Total Regional Market Demand for Rental Units: “Currently the market outlook for new apartment construction in the Austin metropolitan area is cautiously optimistic. Job growth continues in most sectors, in spite of the recent slumps in the semiconductor band dot com industries, and new employees and their families are still moving into the region in significant numbers. New apartment construction combined with lower job growth has caused a 7% decline in the occupancy rate, with the overall occupancy at 90.0% as of December 2001. Occupancy should remain near 90% even if most of the proposed projects are completed.” (p. 51)

Total Local/Submarket Demand for Rental Units: “The potential for job growth in the area is excellent...which means that an increasing number of new employees will be moving to the area in search of affordable housing...Two LIHTC projects have recently been built in the area, Trails at the Park and Spring Valley Townhomes, and both have achieved rapid absorption and good market acceptance.” (p. 51)

ANNUAL INCOME-ELIGIBLE SUBMARKET DEMAND SUMMARY				
Type of Demand	Market Analyst		Underwriter	
	Units of Demand	% of Total Demand	Units of Demand	% of Total Demand
Household Growth	121	3%	163	4%
Resident Turnover	4,011	97%	4,357	96%
TOTAL ANNUAL DEMAND	4,133	100%	4,520	100%

Ref: p. 25

Capture Rate: “When the proposed units are added together with other affordable tax credit projects currently in lease-up or planned in the future, and compared with the total demand for 2003..., the concentration [capture] rate is 20%...” (p. 26) The Underwriter calculated a concentration capture rate of 14% based upon a revised supply of unstabilized comparable affordable units of 714 (the 240-unit Woodway Square development was not included as its application has not been received).

Market Rent Comparables: The market analyst surveyed seven comparable apartment projects totaling 1,894 units in the market area. “The projected [average rental rate of \$0.73 per square foot is] significantly lower than the market area average rents of \$0.91 per square foot. The market area rental rates average more than 10% above the maximum allowable rents under the program.” (p. 47)

RENT ANALYSIS (net tenant-paid rents)					
Unit Type (% AMI)	Proposed	Program Max	Differential	Market*	Differential
1-Bedroom (60%)	\$668	\$736	-\$68	\$775	-\$107
2-Bedroom (60%)	\$789	\$878	-\$89	\$928	-\$139
3-Bedroom (60%)	\$906	\$1,012	-\$106	\$1,140	-\$234

(NOTE: Differentials are amount of difference between proposed rents and program limits and average market rents, e.g., proposed rent =\$500, program max =\$600, differential = -\$100)

*Averages of comparable market rate units (10/30/02 PMA summary sheet). Although these are the prevailing comparable market rents, the market analyst concluded that the Applicant’s proposed rents are the likely maximum rents currently attainable due to concessions being offered at competing LIHTC properties.

Submarket Vacancy Rates: “Occupancy rates in the south central Austin market area stabilized in 1997 at approximately 95.2%. Since that time, the occupancy rate for existing projects...was last reported at 90.4%

(August 2002).” (p. 27)

Absorption Projections: “Based on market conditions anticipated in the area and the proposed development program, the subject should be able to achieve an absorption rate of at least 18 units per month [resulting in a nine-month absorption period].” (p. 52)

Known Planned Development: The analyst identified 24 other multifamily projects totaling 6,857 units under development in the market area. Of these, the following six properties are identified as affordable developments (p. 37-42):

- Kingfisher Creek Apartments, 9% LIHTC #00062, 35 LI units, “...under construction...”
- Pleasant Valley Courtyards, 9% LIHTC #02073, 130 LI units, “...the site is not yet zoned appropriately and there is significant community opposition...”
- South Congress Apartments [aka Circle S Apartments], 4% LIHTC #01458, 200 LI units, “Construction started in March and should be completed by the end of 2002.”
- Spring Valley Townhomes, 9% LIHTC #99072, 173 low-income (LI) units, “The project began leasing in August 2001 and is currently 96% occupied.”
- Villas of Cordoba, 9% LIHTC #00031, 93 LI units, “...currently under construction...completion is expected by the end of 2002.”
- Woodway Square, 2003 4% MFB #003-001, 240 LI units, “It has not yet obtained a bond allocation from Travis County, and will need to receive a 4% tax credit allocation before it proceeds. If approved, construction would likely begin in 1Q 2003.”

The Underwriter found the market study provided sufficient information on which to base a favorable funding recommendation, although with significant reservations. Although the market analyst opined that “more than adequate” demand exists for the development, both the market analyst and appraiser stated that the maximum 60% LIHTC rents were not achievable at the current time due to demand softness at the 60% AMI income level caused by the following factors:

- The extremely high 2002 HUD median household income for the Austin MSA (\$71,100), which resulted in elevated 60% rents.
- A market-wide oversupply of new units which has caused a decline in market-rate rents to LIHTC levels. The market analyst believes this situation to be temporary and that as the market improves and oversupply diminishes the LIHTC properties will regain a price advantage.

It is somewhat contradictory to assert that sufficient demand exists yet neither the maximum LIHTC rents nor the market rents can be achieved. The lender and credit enhancer are also known to share these concerns and have manifested them in the form of a restriction on the loan size and an elevated debt coverage requirement as described below. The appraiser, not being concerned with concentration capture rate, used a different market area extending north to the Colorado River, which includes the following recent TDHCA-funded developments: Pleasant Valley Villas (4% LIHTC #02413, 280 program units), Grove Place (9% LIHTC #02100, 146 program units), and Fairway Village (4% LIHTC #00011T, 128 program units).

SITE and NEIGHBORHOOD CHARACTERISTICS

Location: The site is an irregularly-shaped parcel located in the southeast area of Austin, approximately five miles from the central business district. The site is situated on the west side of Nuckol’s Crossing Road.

Population: The estimated 2001 population of the primary market area was 158,457 and is expected to increase by 13.3% to approximately 179,500 by 2006. Within the primary market area there were estimated to be 57,205 households in 2001.

Adjacent Land Uses: Land uses in the overall area in which the site is located are mixed, with vacant land, light industrial/manufacturing, and low-density single-family residential and duplexes. Adjacent land uses include:

- **North:** Vacant land with St. Elmo road beyond
- **South:** Maufrais Lane, commercial and single-family residential, and a church
- **East:** Nuckol’s Crossing Road with vacant land beyond
- **West:** Vacant land and single-family residential

Site Access: Access to the property is from the northeast or southwest along Nuckol’s Crossing Road or the northwest or southeast from Maufrais Lane. The development is to have a main entry from Nuckol’s

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Crossing Road an an exit onto Maufrais Lane. Access to Interstate Highway 35 is two miles west, which provides connections to all other major roads serving the Austin area.

Public Transportation: Public transportation to the area is provided by the city bus system, with a stop approximately 0.8 miles southwest.

Shopping & Services: The site is within four miles of two major grocery/pharmacies, as well as neighborhood shopping centers, a multi-screen theater, library, and a variety of other retail establishments and restaurants. Schools, churches, and hospitals and health care facilities are located within a short driving distance from the site.

Special Adverse Site Characteristics: The title commitments list several vendors liens that must be cleared by the closing. Receipt, review, and acceptance of documentation verifying the resolution of these issues is a condition of this report.

Site Inspection Findings: TDHCA staff performed a site inspection on October 8, 2002 and found the location to be acceptable for the proposed development. The inspector noted that new single-family residential developments are under construction nearby which are likely to improve the neighborhood, which has historically been depressed.

HIGHLIGHTS of SOILS & HAZARDOUS MATERIALS REPORT(S)

A Phase I Environmental Site Assessment report dated March 22, 2001 and an update thereto dated August 20, 2002 were prepared by EDC Environmental Services (EDC-ES) and contained the following findings and recommendations: "Based on the findings of the original assessment, the scope of work described in this report, and no findings of material change, this update revealed no evidence of recognized environmental concerns in connection with the site. EDC-ES recommends no additional investigation at this time."

OPERATING PROFORMA ANALYSIS

Income: The Applicant's rent projections are significantly (\$68-\$106) lower than the maximum rents allowed under LIHTC guidelines, reflecting the current state of the subject market. These rents were substantiated by the market analyst and appraiser as the maximum rents that can be achieved at present for tax credit units, but both are cautiously optimistic that the market will improve from its present saturated state. There is the potential for significant additional income (approximately \$176K) if the Applicant is able to increase rents to the program maximums. As noted above the unrestricted market rents are somewhat higher than the maximum restricted rents.

The Applicant overstated tenant-paid utility allowances by \$6-\$24 per unit, but as the net rents are already below the maximums the Underwriter did not further adjust them. Estimates of secondary income and vacancy and collection losses are in line with TDHCA underwriting guidelines.

Expenses: The Applicant's total operating expense estimate of \$4,091 per unit is within 1% of the Underwriter's adjusted TDHCA database-derived estimate of \$4,071 per unit for comparably-sized developments. The Applicant's budget shows several line item estimates that deviate significantly when compared to the database averages, however, particularly general and administrative (\$19K lower), payroll (\$8K lower), repairs and maintenance (\$35K lower), water, sewer, and trash (\$25K higher), insurance (\$18K higher), and property tax (\$23K higher).

Conclusion: The Applicant's estimated income is consistent with the Underwriter's expectations and total operating expenses are within 5% of the database-derived estimate. Therefore, the Applicant's NOI should be used to evaluate debt service capacity. In both the Applicant's and the Underwriter's income and expense estimates there is sufficient net operating income to service the proposed first lien permanent mortgage at a debt coverage ratio that is within the TDHCA underwriting guidelines of 1.10 to 1.25.

CONSTRUCTION COST ESTIMATE EVALUATION

Land Value: The site cost of \$1,000,000 (\$1.89/SF or \$82.3K/acre) is substantiated by the appraised value of \$1,060,000 and is assumed to be reasonable since the acquisition is an arm's-length transaction.

Off-Site Costs: The Applicant included no offsite costs in the project cost schedule, although the gas provider's commitment letter indicated that, "It may be necessary to do a street cut and/or bore to access the gas main in order to supply natural gas to your site. Initially the customer or the developer would pay for all new construction cost." In reply to the Underwriter's inquiry regarding this potential cost, the Applicant stated that costs are not expected to be extensive but verification is still underway.

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Sitework Cost: The Applicant's claimed eligible sitework costs of \$6,169 per unit are considered reasonable compared to historical sitework costs for multifamily projects. The eligible costs of \$1,140,000 included in the original application were reduced to \$987,000 in a subsequent letter from the Applicant's accountant.

Direct Construction Cost: The Applicant's direct construction cost estimate is \$343K or 4.4% higher than the Underwriter's Marshall & Swift *Residential Cost Handbook*-derived estimate, and is therefore regarded as reasonable as submitted.

Interim Financing Fees: The Underwriter reduced the Applicant's eligible interim financing fees by \$192,274 to reflect an apparent overestimation of eligible construction loan interest, to bring the eligible interest expense down to one year of fully drawn interest expense. This results in an equivalent reduction to the Applicant's eligible basis estimate.

Fees: The Applicant's contractor's and developer's fees for general requirements, general and administrative expenses, and profit are set at the maximums allowed by TDHCA guidelines, but with the reduction in eligible basis discussed above now exceed the maximum by \$389,544.

Conclusion: The Applicant's total development cost estimate is within 5% of the Underwriter's verifiable estimate and is therefore generally acceptable. Since the Underwriter has been able to verify the Applicant's projected costs to a reasonable margin, the Applicant's total cost breakdown, as adjusted, is used to calculate eligible basis and determine the LIHTC allocation. As a result an eligible basis of \$13,180,995 is used to determine a credit allocation of \$627,152 from this method. The resulting syndication proceeds will be used to compare to the gap of need using the Applicant's costs to determine the recommended credit amount.

FINANCING STRUCTURE ANALYSIS

The Applicant intends to finance the development with three types of financing from three sources: a conventional interim to permanent loan based on tax-exempt bond proceeds, syndicated LIHTC equity, and deferred developer's fees.

Bonds and Conventional Interim to Permanent Loan: The bonds are \$9,100,000 in tax-exempt private activity mortgage revenue bonds to be issued by TDHCA and placed privately through Lend Lease Real Estate Investments. The bonds will be amortized over 30 years at a fixed interest rate estimated and underwritten at 6.35%. Fannie Mae has committed to provide credit enhancement in an amount not to exceed \$8,700,000 for the mortgage loan, and Bank of America has committed to deliver a letter of credit to Fannie Mae as credit support in the amount of \$8,760,465 (which includes 45 days of estimated interest) in connection with the construction and stabilization period. The Lend Lease loan commitment is in an amount not to exceed \$8,700,000, with an earn-out option for a loan not to exceed \$9,100,000 if approved by Fannie Mae prior to bond issuance. The Fannie Mae commitment is conditioned upon a minimum DCR of 1.20.

LIHTC Syndication: Lend Lease Real Estate Investments has also offered terms for syndication of the tax credits. The most recent commitment letter shows net proceeds are anticipated to be \$4,867,000 based on an allocation of \$600,873 and a syndication factor of 81%. The funds would be disbursed in a seven-phased pay-in schedule:

1. 30% upon the latest of: admission to the partnership, closing of the construction loan,, or receipt of the permanent loan commitment;
2. 25% upon the latest of: admission + 90 days or 25% construction completion;
3. 20% upon the latest of: admission + 180 days or 50% construction completion;
4. 10% upon completion of construction;
5. 5% upon the later of: final closing of the permanent mortgage loan, or tax credit determination;
6. 5% upon the attainment of 1.20 DCR; and
7. 5% upon receipt of IRS Forms 8609.

Deferred Developer's Fees: The Applicant's proposed deferred developer's fees of \$1,334,259 amount to 64% of the total fees.

Financing Conclusions: Based on the Applicant's adjusted estimate of eligible basis, the LIHTC allocation should not exceed \$627,152 annually for ten years, resulting in syndication proceeds of approximately \$5,079,855. Based on the underwriting analysis, the entire amount (\$1,719,260) of Applicant's developer fee will require deferral, plus \$13,939 (1%) of the related general contractor's fees. These fees should be repayable from cash flow in less than ten years. Should the Applicant's final direct construction cost exceed the cost estimate used to determine credits in this analysis, additional contractor's fees should be available to

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fund those development cost overruns. If the development is able to charge the maximum 60% LIHTC rents the additional net operating income would support an additional \$995,143 in debt at the first lien loan terms and still provide an aggregate DCR of 1.25. This amount is less than the amount of deferred developer fee anticipated by this analysis and therefore the credit amount would not be affected by a gap-based analysis.

REVIEW of ARCHITECTURAL DESIGN

The units are in mixed two-story townhouse and walk-up structures with stucco and siding exterior finish and pitched and hipped roofs. The exterior elevations are attractive, with varied rooflines and architectural elements such as ornamental shutters and stone accents. All units are of average size for market rate and LIHTC units, and have covered patios or balconies and utility closets with hookups for full-size appliances.

IDENTITIES of INTEREST

The Managing General Partner, Richco Rinehart Investments, LLC, is a 25% owner of the Developer, Beinhorn Partners. Blazer Residential, Inc., the 49% Co-General Partner, is a 1% owner of the Developer. Chris Richardson owns the General Contractor, Blazer Building, Inc., and the Co-General Partner. Mr. Richardson's spouse and two of his adult children collectively own 75% of the Managing General Partner. Joyce Rinehart is president and 25% owner of the Managing General Partner and is an employee of and corporate secretary for both the Co-General Partner and the General Contractor. These appear to be acceptable relationships for LIHTC-funded developments.

APPLICANT'S/PRINCIPALS' FINANCIAL HIGHLIGHTS, BACKGROUND, and EXPERIENCE

Financial Highlights:

- The Applicant and 51% Managing General Partner are single-purpose entities created for the purpose of receiving assistance from TDHCA and therefore have no material financial statements.
- The 49% Co-General Partner, Blazer Residential, Inc., submitted an unaudited financial statement as of August 6, 2002 reporting total assets of \$1.1M and consisting of \$267K in cash, \$436K in receivables, and \$401K in machinery, equipment, and fixtures. Liabilities totaled \$270K, resulting in a net worth of \$834K.
- The principals of the General Partners, Joyce Rinehart and Chris, Anne, Christan, and Leslie Richardson, submitted unaudited financial statements as of August 6, 2002 and are anticipated to be guarantors of the development.

Background & Experience:

- The Applicant and 51% Managing General Partner are new entities formed for the purpose of developing the project.
- Blazer Residential, Inc., the 49% Co-General Partner, listed participation as contractor, general partner, or developer on eight previous LIHTC housing developments totaling 1,602 units since 1991.
- Chris Richardson, owner of the Co-General Partner and General Contractor, listed participation in 12 previous LIHTC and conventional housing developments totaling 3,162 units since 1983.
- The Managing General Partner, Richco Rinehart Investments, LLC, and the four principals thereof, Joyce Rinehart and Anne, Christan, and Leslie Richardson, listed participation in one previous 220-unit LIHTC housing developments since 2001.

SUMMARY OF SALIENT RISKS AND ISSUES

- The Austin apartment market is currently soft, with a significant number of competing LIHTC units scheduled to come on line prior to the completion of the subject.
- The development could potentially achieve an excessive profit level (i.e., a DCR above 1.25) if the maximum tax credit rents can be achieved in this market.
- The significant financing structure changes being proposed have not been reviewed/accepted by the Applicant, lenders, and syndicators, and acceptable alternative structures may exist.

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RECOMMENDATION

- RECOMMEND APPROVAL OF AN LIHTC ALLOCATION NOT TO EXCEED \$627,152 ANNUALLY FOR TEN YEARS, SUBJECT TO CONDITIONS.

CONDITIONS

1. Receipt, review, and acceptance of a copy of the release of liens on the property or an updated title commitment showing clear title;

Credit Underwriting Supervisor:	<i>Jim Anderson</i>	Date: <u>November 4, 2002</u>
Director of Credit Underwriting:	<i>Tom Gouris</i>	Date: <u>November 4, 2002</u>

MULTIFAMILY FINANCIAL ASSISTANCE REQUEST: Comparative Analysis

Woodway Village Apartments, MFB #2002-045/4% LIHTC #02444

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Net Rent per Unit	Rent per Month	Rent per SF	Tnt Pd Util	Wtr, Swr, Trsh
<TC (60%)	10	1	1	782	\$800	\$668	\$6,680	\$0.85	\$64.00	\$40.00
<TC (60%)	6	1	1	787	800	668	4,008	0.85	64.00	40.00
<TC (60%)	10	1	1	829	800	668	6,680	0.81	64.00	40.00
<TC (60%)	6	1	1	831	800	668	4,008	0.80	64.00	40.00
<TC (60%)	16	2	2	1,024	960	789	12,624	0.77	82.00	47.00
<TC (60%)	8	2	2	1,028	960	789	6,312	0.77	82.00	47.00
<TC (60%)	16	2	2	1,053	960	789	12,624	0.75	82.00	47.00
<TC (60%)	8	2	2	1,054	960	789	6,312	0.75	82.00	47.00
<TC (60%)	8	2	2.5	1,124	960	789	6,312	0.70	82.00	47.00
<TC (60%)	8	2	2.5	1,174	960	789	6,312	0.67	82.00	47.00
<TC (60%)	10	3	2.5	1,255	1,109	906	9,060	0.72	97.00	70.00
<TC (60%)	10	3	2.5	1,300	1,109	906	9,060	0.70	97.00	70.00
<TC (60%)	26	3	2.5	1,312	1,109	906	23,556	0.69	97.00	70.00
<TC (60%)	14	3	2.5	1,321	1,109	906	12,684	0.69	97.00	70.00
<TC (60%)	2	3	2.5	1,271	1,109	906	1,812	0.71	97.00	70.00
<TC (60%)	2	3	2.5	1,323	1,109	906	1,812	0.68	97.00	70.00
TOTAL:	160		AVERAGE:	1,109	\$988	\$812	\$129,856	\$0.73	\$84.40	\$54.80

INCOME Total Net Rentable Sq Ft: 177,434

POTENTIAL GROSS RENT

Secondary Income Per Unit Per Month: \$9.00

Other Support Income:

POTENTIAL GROSS INCOME

Vacancy & Collection Loss % of Potential Gross Income: -7.50%

Employee or Other Non-Rental Units or Concessions

EFFECTIVE GROSS INCOME

	TDHCA	APPLICANT		
	\$1,558,272	\$1,558,272		
	17,280	17,280	\$9.00	Per Unit Per Month
	0	0		
	\$1,575,552	\$1,575,552		
	(118,166)	(118,164)	-7.50%	of Potential Gross Rent
	0	0		
	\$1,457,386	\$1,457,388		

EXPENSES

	% OF EGI	PER UNIT	PER SQ FT
General & Administrative	3.39%	\$308	\$0.28
Management	4.00%	364	0.33
Payroll & Payroll Tax	9.46%	862	0.78
Repairs & Maintenance	4.87%	443	0.40
Utilities	2.84%	258	0.23
Water, Sewer, & Trash	4.73%	431	0.39
Property Insurance	1.95%	177	0.16
Property Tax 2.5043	9.62%	877	0.79
Reserve for Replacements	2.20%	200	0.18
Other:	0.00%	0	0.00
TOTAL EXPENSES	43.05%	\$3,921	\$3.54

	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% OF EGI
	\$49,352	\$30,400	\$0.17	\$190	2.09%
	58,295	63,084	0.36	394	4.33%
	137,920	130,000	0.73	813	8.92%
	70,937	36,000	0.20	225	2.47%
	41,322	43,600	0.25	273	2.99%
	68,883	93,500	0.53	584	6.42%
	28,389	46,720	0.26	292	3.21%
	140,241	163,206	0.92	1,020	11.20%
	32,000	32,000	0.18	200	2.20%
	0	0	0.00	0	0.00%
	\$627,340	\$638,510	\$3.60	\$3,991	43.81%

NET OPERATING INC 56.95% \$5,188 \$4.68

DEBT SERVICE

	% OF EGI	PER UNIT	PER SQ FT
1st Lien Mortgage	46.62%	\$4,247	\$3.83
Trustee Fee	0.24%	\$22	\$0.02
TDHCA Admin. Fees	0.62%	\$57	\$0.05
Asset ovst, spt svcs, compl.	1.65%	\$150	\$0.14
NET CASH FLOW	7.82%	\$712	\$0.64

	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% OF EGI
	\$679,481	\$679,128	\$3.83	\$4,245	46.60%
	\$3,500	0	\$0.00	\$0	0.00%
	9,100	0	\$0.00	\$0	0.00%
	24,000	16,000	\$0.09	\$100	1.10%
	\$113,964	\$123,750	\$0.70	\$773	8.49%

AGGREGATE DEBT COVERAGE RATIO 1.16 1.18

BONDS & TRUSTEE FEE-ONLY DEBT COVERAGE RATIO 1.22

BONDS-ONLY DEBT COVERAGE RATIO 1.22

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT
Acquisition Cost (site or bldg)		7.66%	\$7,313	\$6.59
Off-Sites		0.00%	0	0.00
Sitework		6.46%	6,169	5.56
Direct Construction		50.50%	48,230	43.49
Contingency	1.15%	0.65%	625	0.56
General Req'ts	6.00%	3.42%	3,264	2.94
Contractor's G & I	2.00%	1.14%	1,088	0.98
Contractor's Profi	6.00%	3.42%	3,264	2.94
Indirect Construction		2.83%	2,701	2.44
Ineligible Costs		7.67%	7,328	6.61
Developer's G & A	2.00%	1.45%	1,384	1.25
Developer's Profit	13.00%	9.42%	8,995	8.11
Interim Financing		4.03%	3,852	3.47
Reserves		1.36%	1,296	1.17
TOTAL COST		100.00%	\$95,509	\$86.12

	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% of TOTAL
	\$1,170,000	\$1,170,000	\$6.59	\$7,313	7.35%
	0	0	0.00	0	0.00%
	987,000	987,000	5.56	6,169	6.20%
	7,716,859	8,059,770	45.42	50,374	50.65%
	100,000	100,000	0.56	625	0.63%
	522,232	551,990	3.11	3,450	3.47%
	174,077	184,000	1.04	1,150	1.16%
	522,232	551,990	3.11	3,450	3.47%
	432,100	432,100	2.44	2,701	2.72%
	1,172,515	1,172,515	6.61	7,328	7.37%
	221,416	417,000	2.35	2,606	2.62%
	1,439,206	1,670,372	9.41	10,440	10.50%
	616,317	616,317	3.47	3,852	3.87%
	207,438	0	0.00	0	0.00%
	\$15,281,392	\$15,913,054	\$89.68	\$99,457	100.00%

Recap-Hard Construction Costs 65.59% \$62,640 \$56.49

SOURCES OF FUNDS

	%	PER UNIT	PER SQ FT
1st Lien Mortgage	59.55%	\$56,875	\$51.29
LIHTC Syndication Proceeds	35.53%	\$33,930	\$30.60
Additional Financing	0.00%	\$0	\$0.00
Deferred Developer's Fee	8.73%	\$8,339	\$7.52
Additional (excess) Funds Requi	-3.81%	(\$3,635)	(\$3.28)
TOTAL SOURCES			

	TDHCA	APPLICANT	RECOMMENDED
	\$9,100,000	\$9,100,000	\$9,100,000
	5,428,795	5,428,795	5,079,855
	0	0	0
	1,334,259	1,334,259	1,733,199
	(581,662)	50,000	0
	\$15,281,392	\$15,913,054	\$15,913,054

MULTIFAMILY FINANCIAL ASSISTANCE REQUEST (continued)
Woodway Village Apartments, MFB #2002-045/4% LIHTC #02444

DIRECT CONSTRUCTION COST ESTIMATE

Residential Cost Handbook

Average Quality Multiple Residence & Townhouse Bases

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			\$44.04	\$7,813,338
Adjustments				
Exterior Wall Finish	0.35%		\$0.15	\$27,347
9-Ft. Ceilings	0.03		1.32	234,400
Roofing			0.00	0
Subfloor			(1.12)	(197,839)
Floor Cover			2.43	431,165
Porches/Balconies	\$29.24	14,745	2.43	431,138
Plumbing	\$615	568	1.97	349,320
Built-In Appliances	\$2,100	160	1.89	336,000
Fireplaces	\$2,200	1	0.01	2,200
Floor Insulation			0.00	0
Heating/Cooling			1.88	333,576
Garages	\$20.11	32,000	3.63	643,520
Comm &/or Aux Bldgs	\$53.70	5,040	1.53	270,663
Other:		0	0.00	0
SUBTOTAL			60.16	10,674,827
Current Cost Multiplier	1.02		1.20	213,497
Local Multiplier	0.87		(7.82)	(1,387,728)
TOTAL DIRECT CONSTRUCTION COSTS			\$53.54	\$9,500,596
Plans, specs, survy, b	3.90%		(2.09)	(370,523)
Interim Construction I	3.38%		(1.81)	(320,645)
Contractor's OH & Prof	11.50%		(6.16)	(1,092,569)
NET DIRECT CONSTRUCTION COSTS			\$43.49	\$7,716,859

PAYMENT COMPUTATION

Primary	\$9,100,000	Amort	360
Int Rate	6.35%	DCR	1.22
Secondary			
	\$5,428,795	Amort	
Int Rate		Subtotal DCR	1.21
Additional			
	\$0	Amort	
Int Rate		Aggregate DCR	1.16

ALTERNATIVE FINANCING STRUCTURE:

Primary Debt Service	\$679,481
Trustee Fee	3,500
TDHCA Fees	33,100
NET CASH FLOW	\$113,964

Primary	\$9,100,000	Amort	360
Int Rate	6.35%	DCR	1.22
Secondary			
	\$5,428,795	Amort	0
Int Rate	0.00%	Subtotal DCR	1.22
Additional			
	\$0	Amort	0
Int Rate	0.00%	Aggregate DCR	1.16

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE

INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	\$1,558,272	\$1,605,020	\$1,653,171	\$1,702,766	\$1,753,849	\$2,033,192	\$2,357,026	\$2,732,439	\$3,672,170
Secondary Income	17,280	17,798	18,332	18,882	19,449	22,546	26,138	30,301	40,721
Other Support Income:	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	1,575,552	1,622,819	1,671,503	1,721,648	1,773,298	2,055,738	2,383,164	2,762,740	3,712,891
Vacancy & Collection Los	(118,166)	(121,711)	(125,363)	(129,124)	(132,997)	(154,180)	(178,737)	(207,205)	(278,467)
Employee or Other Non-Re	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	\$1,457,386	\$1,501,107	\$1,546,140	\$1,592,525	\$1,640,300	\$1,901,558	\$2,204,426	\$2,555,534	\$3,434,425
EXPENSES at 4.00%									
General & Administrative	\$49,352	\$51,326	\$53,379	\$55,514	\$57,735	\$70,243	\$85,462	\$103,978	\$153,912
Management	58,295	60,044	61,846	63,701	65,612	76,062	88,177	102,221	137,377
Payroll & Payroll Tax	137,920	143,437	149,174	155,141	161,347	196,303	238,833	290,577	430,124
Repairs & Maintenance	70,937	73,775	76,726	79,795	82,987	100,966	122,841	149,455	221,229
Utilities	41,322	42,975	44,694	46,482	48,341	58,814	71,557	87,060	128,870
Water, Sewer & Trash	68,883	71,638	74,503	77,484	80,583	98,041	119,282	145,125	214,821
Insurance	28,389	29,525	30,706	31,934	33,212	40,407	49,161	59,812	88,537
Property Tax	140,241	145,850	151,684	157,752	164,062	199,606	242,852	295,466	437,362
Reserve for Replacements	32,000	33,280	34,611	35,996	37,435	45,546	55,414	67,419	99,797
Other	0	0	0	0	0	0	0	0	0
TOTAL EXPENSES	\$627,340	\$651,851	\$677,324	\$703,799	\$731,314	\$885,990	\$1,073,578	\$1,301,113	\$1,912,029
NET OPERATING INCOME	\$830,045	\$849,256	\$868,816	\$888,726	\$908,986	\$1,015,567	\$1,130,848	\$1,254,422	\$1,522,395
DEBT SERVICE									
First Lien Financing	\$679,481	\$679,481	\$679,481	\$679,481	\$679,481	\$679,481	\$679,481	\$679,481	\$679,481
Trustee Fee	3,500	3,500	3,500	3,500	3,500	3,500	3,500	3,500	3,500
TDHCA Admin. Fees	9,100	8,995	8,884	8,765	8,639	7,870	6,816	5,369	657
Asset ovst, spt svcs, co	24,000	24,960	25,958	26,997	28,077	34,159	41,560	50,564	74,848
Cash Flow	113,964	132,320	150,992	169,982	189,290	290,556	399,490	515,507	763,910
AGGREGATE DCR	1.16	1.18	1.21	1.24	1.26	1.40	1.55	1.70	2.01

LIHTC Allocation Calculation - Woodway Village Apartments, MFB #2002-045/4% LIHTC

CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS
(1) Acquisition Cost				
Purchase of land	\$1,170,000	\$1,170,000		
Purchase of buildings				
(2) Rehabilitation/New Construction Cost				
On-site work	\$987,000	\$987,000	\$987,000	\$987,000
Off-site improvements				
(3) Construction Hard Costs				
New structures/rehabilitation ha	\$8,059,770	\$7,716,859	\$8,059,770	\$7,716,859
(4) Contractor Fees & General Requirements				
Contractor overhead	\$184,000	\$174,077	\$180,935	\$174,077
Contractor profit	\$551,990	\$522,232	\$542,806	\$522,232
General requirements	\$551,990	\$522,232	\$542,806	\$522,232
(5) Contingencies				
	\$100,000	\$100,000	\$100,000	\$100,000
(6) Eligible Indirect Fees				
	\$432,100	\$432,100	\$432,100	\$432,100
(7) Eligible Financing Fees				
	\$616,317	\$616,317	\$616,317	\$616,317
(8) All Ineligible Costs				
	\$1,172,515	\$1,172,515		
(9) Developer Fees				
			\$1,719,260	
Developer overhead	\$417,000	\$221,416		\$221,416
Developer fee	\$1,670,372	\$1,439,206		\$1,439,206
(10) Development Reserves				
		\$207,438		
TOTAL DEVELOPMENT COSTS	\$15,913,054	\$15,281,392	\$13,180,995	\$12,731,439

Deduct from Basis:				
All grant proceeds used to finance costs in eligible basis				
B.M.R. loans used to finance cost in eligible basis				
Non-qualified non-recourse financing				
Non-qualified portion of higher quality units [42(d)(3)]				
Historic Credits (on residential portion only)				
TOTAL ELIGIBLE BASIS			\$13,180,995	\$12,731,439
High Cost Area Adjustment			130%	130%
TOTAL ADJUSTED BASIS			\$17,135,294	\$16,550,871
Applicable Fraction			100%	100%
TOTAL QUALIFIED BASIS			\$17,135,294	\$16,550,871
Applicable Percentage			3.66%	3.66%
TOTAL AMOUNT OF TAX CREDITS			\$627,152	\$605,762

Syndication Proceeds 0.8100 \$5,079,855 \$4,906,599

RENT CAP EXPLANATION

Austin/San Marcos MSA

AFFORDABILITY DEFINITION & COMMENTS

An apartment unit is "**affordable**" if the total housing expense (rent and utilities) that the tenant pays is **equal to or less than 30%** of the tenant's household income (as determined by HUD).

Rent Caps are established at this **30%** "affordability" threshold based on local area median income, adjusted for family size. Therefore, rent caps will vary from property to property depending upon the local area median income where the specific property is located.

If existing rents in the local market area are lower than the rent caps calculated at the 30% threshold for the area, then by definition the market is "affordable". This situation will occur in some larger metropolitan areas with high median incomes. In other words, the rent caps will not provide for lower rents to the tenants because the rents are already affordable. This situation, however, does not ensure that individuals and families will have access to affordable rental units in the area. The set-aside requirements under the Department's bond programs ensure availability of units in these markets to lower income individuals and families.

MAXIMUM INCOME & RENT CALCULATIONS (ADJUSTED FOR HOUSEHOLD SIZE) - 2002

MSA/County: **Austin** Area Median Family Income (Annual): **\$71,100**

ANNUALLY				MONTHLY							
Maximum Allowable Household Income to Qualify for Set-Aside units under the Program Rules				Maximum Total Housing Expense Allowed based on Household Income (Includes Rent & Utilities)			Utility Allowance by Unit Type <small>(provided by the local PHA)</small>	Maximum Rent that Owner is Allowed to Charge on the Set-Aside Units (Rent Cap)			
# of Persons	At or Below			Unit Type	At or Below			At or Below			
	50%	60%	80%		50%	60%	80%	50%	60%	80%	
1	\$ 24,900	\$ 29,880	\$ 38,100	Efficiency	\$ 622	\$ 747	\$ 952	\$ 52.00	\$ 570	\$ 695	\$ 900
2	28,450	34,140	43,500	1-Bedroom	666	800	1,020	64.00	602	736	956
3	32,000	38,400	48,950	2-Bedroom	800	960	1,223	82.00	718	878	1,141
4	35,550	42,660	54,400	3-Bedroom	924	1,109	1,414	97.00	827	1,012	1,317
5	38,400	46,080	58,750	4-Bedroom	1,031	1,237	1,577	125.00	906	1,112	1,452
6	41,250	49,500	63,100	5-Bedroom	1,138	1,365	1,740	137.00	1,013	1,240	1,615
7	44,100	52,920	67,450								
8	46,950	56,340	71,800								
FIGURE 1				FIGURE 2			FIGURE 3	FIGURE 4			

Figure 1 outlines the maximum annual household incomes in the area, adjusted by the number of people in the family, to qualify for a unit under the set-aside grouping indicated above each column.

For example, a family of three earning \$33,000 per year would fall in the 60% set-aside group. A family of three earning \$28,000 would fall in the 50% set-aside group.

Figure 2 shows the maximum total housing expense that a family can pay under the affordable definition (i.e. under 30% of their household income).

For example, a family of three in the 60% income bracket earning \$38,400 could not pay more than \$960 for rent and utilities under the affordable definition.

1) \$38,400 divided by 12 = **\$3,200** monthly income; then,

2) **\$3,200** monthly income times 30% = **\$960** maximum total housing expense.

Figure 4 displays the resulting maximum rent that can be charged for each unit type, under the three set-aside brackets. This becomes the rent cap for the unit.

The rent cap is calculated by subtracting the utility allowance in **Figure 3** from the maximum total housing expense for each unit type found in **Figure 2**.

Figure 3 shows the utility allowance by unit size, as determined by the local public housing authority. The example assumes all electric units.

WOODWAY VILLAGE APARTMENTS

RESULTS & ANALYSIS:

Tenants in the 60% AMFI bracket will **save \$52 to \$183** per month (leaving 1.8% to 4.9% more of their monthly income for food, child care and other living expenses).

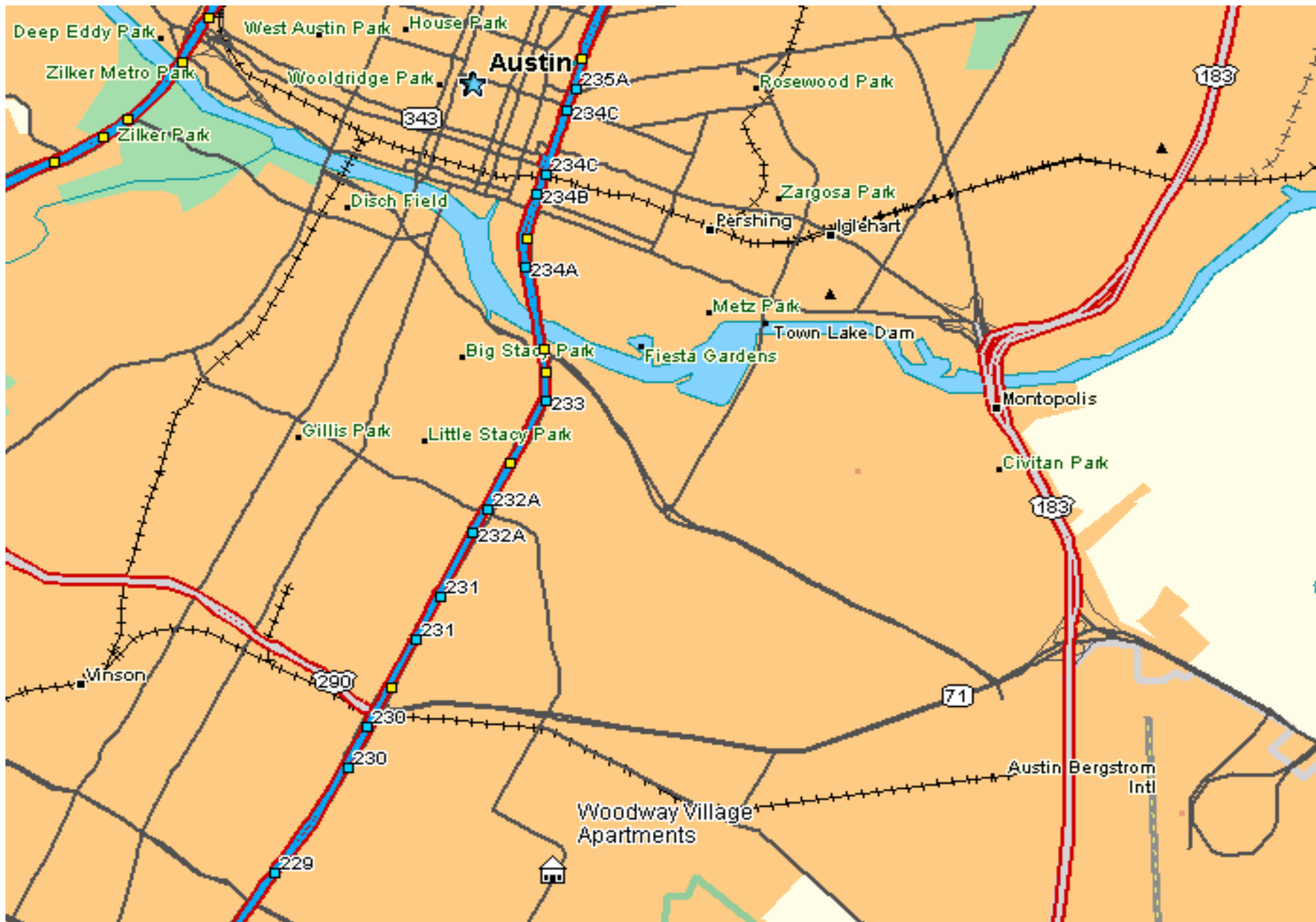
This is a monthly savings off the market rents of **6.6% to 15.3%**.

PROJECT INFORMATION				
Unit Mix				
Unit Description	1-Bedroom	2-Bedroom	3-Bedroom	
Square Footage	812	1,074	1,313	
Rents if Offered at Market Rates	\$788	\$956	\$1,195	
Rent per Square Foot**	\$0.97	\$0.89	\$0.91	

SAVINGS ANALYSIS FOR 60% AMFI GROUPING				
Rent Cap for 60% AMFI Set-Aside	\$736	\$878	\$1,012	
Monthly Savings for Tenant	\$52	\$78	\$183	
Rent per Square Foot	\$0.91	\$0.82	\$0.77	
Maximum Monthly Income - 60% AMFI	\$2,845	\$3,200	\$3,698	
Monthly Savings as % of Monthly Income	1.8%	2.4%	4.9%	
% DISCOUNT OFF MONTHLY RENT	6.6%	8.1%	15.3%	

Market Information provided by: Capitol Market Research, Inc., 605 Brazos, Suite 300, Austin, Texas 78701. (512) 476-5000. Reported as of August 29, 2002.

** Rent per Square Foot - calculated by using weighted average of comparable units in market analysis.



Developer Evaluation

Compliance Status Summary

Project ID #: 02444

LIHTC 9% LIHTC 4%

Project Name: Woodway Village

HOME HTF

Project City:

BOND SECO

Housing Compliance Review

Project(s) in material non-compliance

No previous participation

Status of Findings (individual compliance status reports and National Previous Participation and Background Certification(s) available)

Projects Monitored by the Department

reviewed 3 # not yet monitored or pending review 3

of projects grouped by score 0-9: 2 10-19: 0 20-29: 1

Members of the development team have been disbarred by HUD

National Previous Participation Certification Received N/A

Non-Compliance Reported _____

Completed by Jo En Taylor Completed on 10/28/2002

Single Audit

Status of Findings (any outstanding single audit issues are listed below)

single audit not applicable no outstanding issues outstanding issues

Comments:

Completed by Lucy Trevino Completed on 10/28/2002

Program Monitoring

Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by Ralph Hendrickson Completed on 10/28/2002

Community Affairs Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by EEF **Completed on** _____

Housing Finance Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by _____ **Completed on** _____

Housing Programs Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by S. Roth **Completed on** 10/28/2002

Multifamily Finance Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by Robbye Meyer **Completed on** 10/28/2002

Executive Director: _____ **Date Signed:** _____

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

TAX EXEMPT MULTIFAMILY REVENUE BONDS

WOODWAY VILLAGE
4500 Nuckols Crossing Road

PUBLIC HEARING

Cafetorium
Widen Elementary School
5605 Nuckols Crossing
Austin, Texas

October 8, 2002
6:00 p.m.

BEFORE:

ROBBYE G. MEYER, Multifamily Loan Analyst

I N D E X

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P R O C E E D I N G S

1
2 MS. MEYER: Good evening. My name is Robbye
3 Meyer and I would like to proceed with the public hearing
4 and let the record show that it is 6:19 on Tuesday,
5 October 8, 2002, and we are in the Widen Elementary School
6 in Austin, Texas.

7 I am here to conduct a public hearing on behalf
8 of the Texas Department of Housing and Community Affairs
9 with respect to an issue of tax exempt multifamily revenue
10 bonds for a residential rental community. This hearing is
11 required by the Internal Revenue Code. The sole purpose
12 of this hearing is to collect comments that will be
13 provided to the highest elected official with jurisdiction
14 over this issue which is the Texas state attorney general.

15 No decisions regarding the project will be made at this
16 hearing; there are no department board members present.
17 The department's board will meet to consider the
18 transaction on November 14, 2002 upon recommendation by
19 the finance committee.

20 In addition to providing your comments at this
21 hearing, the public is also invited to provide public
22 comment directly to the finance committee or the board at
23 any of their meetings. The department staff will also
24 written comment from the public via facsimile at 512-475-

1 3085 or by e-mail -- and I'll give you a copy of my card
2 and it has all my information on it -- up until five
3 o'clock on November 1, 2002.

4 The bonds will be issued as tax exempt
5 multifamily revenue bonds in an aggregate principal amount
6 not to exceed \$9,100,000 and taxable bonds if necessary in
7 an amount to be determined by the Texas Department of
8 Housing and Community Affairs. The proceeds of the bonds
9 will be loaned to Nuckols Crossing Partners, Ltd., or a
10 related person or affiliate entity thereof, to finance a
11 portion of the cost of acquiring, constructing and
12 equipping a multifamily rental housing community described
13 as follows: a 160-unit multifamily residential rental
14 development to be constructed on approximately 12.2 acres
15 of land located at 4500 Nuckols Crossing Road in Austin,
16 Travis County, Texas. The proposed multifamily rental
17 housing community will be initially owned and operated by
18 the borrower or a related person or affiliate thereof.

19 I would like to now open the floor up for
20 public comment. You will have three minutes to speak.
21 Whenever you come to the microphone, if you will state
22 your name clearly for the record, and the first person is
23 Anna Lee Perez. You're not going to speak? I'm going to
24 go through the whole list so if you've checked no, I'm

1 always going to give you the chance.

2 VOICE FROM AUDIENCE: Could you repeat that
3 telephone number, please?

4 MS. MEYER: 512-475-3085, and all that's on my
5 card and I'll give that to you at the end of the hearing.

6 Mr. Gomez?

7 (No response.)

8 MS. MEYER: John Hibbitts?

9 MR. HIBBITTS: My name is John Hibbitts; I'm a
10 resident of this area, 5702 Fence Row. I'm a retired
11 architect and a retired lawn planner.

12 First and foremost, I'd like to say that I knew
13 nothing at all about this; I never received any
14 information from anybody, from any institution or any
15 organization about what's been going up in this particular
16 area. No physical documents were in my hand. I've heard
17 some people in the neighborhood talking, but I haven't
18 heard any.

19 I'd like somebody to explain to me where the
20 money comes from, who are the beneficiaries of this
21 particular project, and just based on my past experience,
22 this is what I would term a palomia [phonetic], like where
23 you keep pigeons. Forty years ago in Europe this was
24 being done after the Second World War and Latin America

1 after earthquakes in Guatemala in 1973 where I worked. I
2 worked in Philadelphia in 1979 in so-called urban renewal
3 and low-cost housing.

4 This is not the way to present a project to a
5 low-cost housing in front of an area where you've got K&B
6 who are supposedly developing 130,000 to 200,000 dollar
7 houses. I only learned about this today. The whole thing
8 seems to be an absolute disaster pending with our money,
9 tax money.

10 I'd like somebody to send me some information.
11 My address 5702 Fence Row; you have my name, I'll give
12 you my telephone number. I'd like to know a little bit of
13 the history: where did the architects come from, what
14 experience have they had in designing this type of units;
15 also, what are the benefits to our community.

16 The only thing is this is not a very good
17 community to begin with, but we've doing our best by
18 staying here and fighting and trying to make it a decent
19 place to live for people. There used to be a lot of
20 retirees from Bergstrom Air Force Base; they're mostly all
21 gone now, been driven away. I'm sure the people who are
22 involved in this project are not going to be living here.
23 That's all I've got to say.

24 MS. MEYER: Thank you for your comments.

1 Mary Hall? You're not going to speak? Okay.

2 Pamela Franco?

3 MS. FRANCO: My name is Pamela Franco, I live
4 at 4706 Cypress Bend. I would like to know two things:
5 Is this going to be Section 8 housing and is this going to
6 increase the value of my property?

7 MS. MEYER: I can answer the Section 8
8 question, and no, the answer is no to that question. As
9 far as the value of your property, I can't answer that
10 question for you. But it is not Section 8 housing; HUD
11 has nothing to do with the development.

12 MS. FRANCO: Does the Department of
13 Transportation have anything to do with this in making the
14 roads easier to access? You're going to put in all these
15 people with one entrance that's hard enough for us to get
16 out onto St. Elmo and Nuckols Crossing now. You've got
17 160 units with one exit.

18 MS. MEYER: I can't answer that question
19 either.

20 MS. FRANCO: And how long will Nuckols Crossing
21 and St. Elmo be closed for that to be put up so that we
22 have to go around out of our way?

23 MS. MEYER: I don't know why it's closed now
24 anyway, so I can't answer that question.

1 MS. FRANCO: These are just questions. All I
2 want to say is I don't want to see apartments over there.

3 I bought a house over here 2-1/2 years ago, because I
4 found out that all the open areas were zoned for single-
5 family houses; I wanted to live somewhere that single
6 families starting out with little kids would all live and
7 make a neighborhood.

8 If I wanted to live next door to apartments, I
9 would have bought a house for a lot cheaper next to
10 apartments. All of sudden the city just changes the
11 zoning, and we have nothing to say about it. I'd like to
12 know, too, anything we say here tonight, is it going to
13 matter or is this already a done deal?

14 MS. MEYER: No, it's not.

15 MS. FRANCO: Does anything we say matter?

16 MS. MEYER: The public comment, everything that
17 is taken at this meeting will be given to our board of
18 directors to make a decision.

19 MS. FRANCO: Thank you.

20 MS. MEYER: Billy Sifuentes?

21 MR. SIFUENTES: Good evening, Ms. Meyer.
22 Excuse me for my attire, I just got home and Mr. John
23 showed me a letter saying that there was a meeting here
24 pertaining to this development.

1 That's a very unfair manner of identifying
2 residents who are pro or for, and I submit to you, ma'am,
3 that we should suspend this meeting until a better way of
4 communicating to the residents of the entire area of this
5 part of Austin, not selected few. I believe hearing
6 comments from a gentleman earlier saying this is a good
7 deal, this is a done deal, who represents other
8 neighborhood associations is totally unfair.

9 I do not know who is responsible for passing
10 out the notification, but Ms. Meyer, this is a setup
11 because, granted, I live at 5410 Fence Row. I'm a retired
12 police officer; I have seen these low-income entitled
13 homes developed in east Austin and this Austin area, and
14 within five years to ten years we have a slum. This was
15 the City of Austin's slum projected area when it first got
16 built and it has become that and it has maintained that.

17 The gentleman who was talking earlier -- don't
18 know his name -- said we already have five of these in
19 this neighborhood -- five. What is the criteria set out
20 by this Department of Public Affairs concerning low-income
21 developments? We have five. Do you not believe we
22 already have one too many?

23 We have a rising crime rate in Austin,
24 especially southeast Austin. We have traffic. The

1 infrastructure of this streetway is not built now;
2 Stassney is a major east-west thoroughfare; it was not
3 meant to be that. We are having a development of over 100
4 homes by KB Homes behind my house, and I know you're not
5 responsible for that, ma'am, but be thinking about that.
6 There's over 100 family homes being built behind my house;
7 there is one two-lane roadway, ma'am that will come off
8 this 160 units. Ma'am, it's very unfair.

9 The second thing I'd like to point out to you
10 that is very important is we have many Hispanic residents
11 in southeast Austin. I have no qualm translating, but I
12 want to get paid for it. You should have brought a
13 translator, because that's very unfair.

14 My neighborhood 18 years ago has changed
15 considerably. By the good will of God I have five people
16 around that are all homeowners, and three of them do not
17 speak any English but they're naturalized citizens and
18 they are learning English. They should be here but
19 they're not going to be here because someone has failed or
20 someone has deliberately not made an effort to get to
21 homes. And I searched everywhere, ma'am. This is the
22 only thing we got in the mail not too long ago; I chose
23 not to attend.

24 But this, ma'am, is a dangerous situation,

1 again, for this neighborhood because we're going to have
2 what's called the "broken window syndrome" all over again.

3 Low-income housing, Section 8 housing, whatever you want
4 to call it, ma'am, this is not a viable project for this
5 part of the city of Austin. There will be someone coming
6 up here telling you the associations want it. If you
7 would ask this person how many people come to the
8 association meetings, I don't know what he'll tell you,
9 maybe 15-20; 15-20 people, 30 people cannot make the
10 entire decision for this type of housing, ma'am.

11 I live across the street from here. I've been
12 a victim of burglaries, theft. Ma'am, this will not be
13 conducive to this neighborhood. This a beautiful pristine
14 area of town; it's just being rocked -- there's also
15 another construction site just down the street from this
16 and across the street. We're losing nature, ma'am.

17 And I, too, like this lady here, I knew of
18 SF-1s because I really wanted to stay in this
19 neighborhood. I live right across the street, and there's
20 the Jimmy Clay golf course right there, ma'am. How great
21 it is to pay for a \$67,000 house and you can walk to Jimmy
22 Clay; if you live in north Austin, you have to pay
23 \$200,000 to walk to a golf course, and this is really
24 neat, ma'am.

1 But this is not an amenity, this is a disaster,
2 it really is, ma'am. Again, I apologize for my attire, I
3 just got off of work. Mr. John here -- not disrespect to
4 you, ma'am. My name is Billy Sifuentes, I live at 5410
5 Fence Row. I can tell you, ma'am, I am a Section 8, born
6 and raised in the Chalmers projects at 3rd and Comal. My
7 family was a tight-knit family. If you go back to those
8 projects now, it's a war zone.

9 Thank you, Ms. Meyer, for coming down here. I
10 apologize for my enthusiasm. I'm not mad at you; I'm just
11 very upset, because I believe the majority of the people
12 that are against this were not properly notified. thank
13 you, Ms. Meyer.

14 (Applause.)

15 MS. MEYER: Thank you. Leigh -- I don't want
16 to butcher your last name, so if you'll state your name
17 for the record.

18 MS. STAVINOHA: My name is Leigh Stavinoha; I
19 live at 5000 Maufrais Lane. I'd like to say first off I
20 am against this. I know the expression is everybody is
21 for affordable housing but they don't want it in their
22 backyard, and I literally do not want it in my backyard.

23 We've already got -- the gentleman before me
24 said five; I know of two that are in that same

1 neighborhood, one just a couple of blocks south of the
2 location of where they want to put this 160 units, and
3 just less than a quarter of a mile north of the same place
4 where they're building right now low-income housing.

5 And I think it's ridiculous that the
6 neighborhood association got in bed with the builder and
7 made some kind of deal with them about cleaning up the
8 greenbelt to allow them to give them their vote of
9 approval for them to build this low-income housing here.

10 They're not living right next door to it, like
11 I would be; they're not going to be subjected to the
12 traffic, like the rest of the neighbors here would be.
13 And I feel bad because the weather is so bad we don't have
14 a very good show of the true amount of people who are
15 against this, the real neighbors, like the gentleman said
16 before, not the neighborhood association.

17 I'm upset because we had no notification about
18 this other than two small signs that you had to be looking
19 at in order to see them. They were posted way down
20 Maufrais Lane and on the property where it's being
21 proposed. Nothing was mailed out to anybody, it wasn't in
22 Spanish. There's a huge populace of Hispanic people here
23 who probably don't even know what the signs mean, and I
24 think it's wrong.

1 And like I said, I'm against it and I don't
2 want it in my backyard. I think it's going to create
3 traffic. There's going to be about ten to twelve more
4 streets of homes across the street, and it's going to
5 generate how much more traffic.

6 There's not going to be a light there. It's
7 going to be crazy to try to get out of the street that I
8 live on. I don't want it. I'm very adamant about this: I
9 do not want it. That's all I have to say.

10 MS. MEYER: Thank you. Marvin? Lew Marks?

11 MR. MARKS: My name is Lew Marks, and I live at
12 5300 Fence Row. I've lived in the area for about six
13 years, going on seven. I'm here to voice my disapproval
14 of this project, along with everyone else here tonight.

15 Just looking at your plan over here, I see 160
16 units. It hardly looks like enough parking for that many
17 people, and besides that, one entrance out on to Nuckols
18 Crossing is going to make that almost perilous in and out
19 on an already congested small street.

20 The other issues I see, this will affect my
21 property value. 160 units of low-cost housing, how many
22 people will be living there? Not 160, I guarantee you,
23 it's going to be four or five times that many. Will the
24 schools accommodate the kids? These are questions I have

1 and I want to know if that's gone into planning.

2 The other objection I have is that this is kind
3 of a dumping ground in this part of the city for these
4 kinds of projects. There's another project behind this
5 over on Pleasant Valley going in, also a couple hundred
6 units of apartments going in. KB Homes is across the
7 street from this, a couple hundred more houses. I mean, I
8 say enough is a enough. We've had it for this part of the
9 city. It's high dense population now, it's time to stop
10 this. Thank you.

11 (Applause.)

12 MS. MEYER: Thank you. Imani Shanklin?

13 MS. SHANKLIN: Hello. My name is Imani
14 Shanklin, and I'm going against this. The thing about
15 5000 Maufrais Lane is that it's beautiful. That's not
16 beautiful, no way. We don't want it, none of us, not one
17 of us. We love it, don't take it away from us.

18 MS. MEYER: Jamie Beebe? No? Okay. Lee
19 Sloan.

20 (Pause.)

21 MR. SLOAN: I'll try to speak up. Can people
22 hear, sort of?

23 Ms. Meyer, my name is Lee Sloan, I'm the
24 president of the Kensington Park Homeowners Association.

1 I live at 4202 Afton Lane.

2 I'm sort of like Daniel in the lion's den here,
3 because I'm here to join the overwhelming support of our
4 neighborhood with nine other neighborhood associations in
5 support of this agreement. The nine other neighborhood
6 associations worked with this developer to hammer out
7 agreements for big greenbelts along the creek over there,
8 to put SF-2 zoning behind Franklin Park so they don't have
9 to have MF-2 and apartment houses coming in there.

10 The associations that worked together and have
11 signed agreements with this set of developers are our
12 neighborhood association which is Kensington Park, the
13 Franklin Park Neighborhood Association, Peppertree Park
14 Neighborhood Association, Dove Springs Neighborhood
15 Association -- Joe Munoz is president of that --
16 Greenslopes Neighborhood Association, the Williamson Creek
17 Fairway Village Neighborhood Association, Bluff Springs
18 Neighborhood Association, Spring Meadows Neighborhood
19 Association, Creekbend Neighborhood Association.

20 VOICE FROM AUDIENCE: There's no way anybody in
21 Spring Meadows is for this thing, and all those other
22 associations don't even live near these things.

23 MS. MEYER: If everybody will let him speak for
24 his time.

1 MR. SLOAN: I'm sorry. This was the group who
2 signed, and SCAN, the Southeast Coalition of Area
3 Neighborhoods supported this. Let me tell you what
4 happened on this. I know you're all hot and irritated
5 about this, and I'd like to tell you at least how we
6 started.

7 When we first found out about this proposed
8 development, there as no question in anybody's mind in our
9 neighborhood association if this was anything like that
10 Kingfisher Creek project that is going in down the street
11 from us, we would be adamantly opposed to it.

12 I told my son, I told others, I said these are
13 bottom feeders, these are developers going to come in here
14 and screw the entire land up.

15 However, we met with the developer, and we
16 tried to meet with them with an open mind, and we sat down
17 with them, and we voiced our concerns and we laid out our
18 requirements. We said if you will do this, this and this,
19 maybe we can work with you on this project. And they
20 listened and they said we can do that, and we got what we
21 think in the end was a good development. We hammered
22 something that could have been terrible I think into a
23 very good development for the area.

24 We have arrived at a formal agreement; that

1 agreement is set as a signed agreement. This occurred
2 about a year ago. It protects the creeks and wetlands of
3 the neighborhood; we have 200-foot greenbelts set back
4 that's going to join in with some of the trails that Lew
5 likes for this area.

6 We got the Franklin Park Homeowners SF-2 zoning
7 behind their property instead of MF-2 and MF-3 which would
8 have allowed multifamily units to come in there. There
9 were promises from the developer to help with the roadway
10 traffic; they're talking right now to helping, I think,
11 try to punch through some roads over to Stassney to get
12 some of the traffic off of Nuckols Crossing.

13 There is hope that it would help -- what we
14 came up we thought would help preserve the quality of life
15 in our area and in our neighborhood. The development is
16 in conformity with the study that was done by the City of
17 Austin 1984 called the St. Elmo Road Area Study, and the
18 development provides affordable housing for the citizens
19 of Austin.

20 I'm appearing before you tonight because I
21 think after having worked for almost half a year with
22 these developers and lots of meetings that this is a
23 reasonable thing to put in here and to voice my support
24 for this project.

1 I'd like to make two comments in closing.
2 First, to those of you who did not participate, I do not
3 know why you were not notified; I do not know why notice
4 is just coming now to you, I really don't.

5 VOICE FROM AUDIENCE: Well, it seems like if
6 you got everything under control why we cannot be notified
7 about the further information. You should know that.

8 MR. SLOAN: I don't have any idea why, I really
9 don't; I wish I did. One thing I would urge you, though,
10 There is a huge fight coming up with the Pleasant Valley
11 Courtyards project. It's going to be over here behind
12 Franklin Park. They are looking to rezone that entire
13 area. There is a meeting tomorrow night -- and I thought
14 Diane Sanders might be here tonight, but she's not.

15 But there's a meeting tomorrow night at the rec
16 center, I think, over there at Dove Springs. You need to
17 call her, go there and get involved now. Don't wait until
18 these things come crashing in on you and then you say, oh
19 my gosh, this is terrible, what can I do.

20 Second point -- and I'm totally in favor of
21 this -- we need better notification for everyone here from
22 TDHCA when you're planning to move a project into this
23 area, and we want to be notified ahead of time before they
24 get their tax credits and these things are set in

1 concrete.

2 This developer came to us before they got their
3 tax credits and said, What can we do to try to make this a
4 better project. Most of the others come to you and they
5 say we have tax credits from the U.S. government; we're
6 going to build 250 or 160 units, and we're not budging
7 from that number and we're not going to change our site
8 plan.

9 I would urge TDHCA to find some way to notify
10 these people, notify neighborhoods other than just put it
11 in the paper in the legal columns -- which nobody reads in
12 the paper -- but to get notification out to people when an
13 applicant has submitted an application so that we can
14 start working with them or opposing them at that point.
15 It's really difficult to come in later and oppose these
16 people.

17 Anyway, that concludes my remarks. I would
18 urge you again, though, to try to do some new notification
19 because none of these people here knew about this, I bet,
20 until now. And you know, if somebody notified me two days
21 ago, I would be mad as a hornet, and we are PO'd at a lot
22 of the stuff that goes on, but I think, in my opinion,
23 this is going to be a good development. Thank you.

24 MS. MEYER: Isidro Perez? Ricardo Perez?

1 Francis Pierce.

2 MR. PIERCE: Good evening. My name is Francis
3 Pierce. I live at 5312 Fence Row, and the first I heard
4 about this was Saturday. I believe it was Saturday they
5 put that note on my door. I am really appalled at this
6 because they're going to put a low-rent project in the
7 back of my house over there.

8 I've lived here 3-1/2 years, I love my
9 neighborhood, I love my neighbors, everything is fine,
10 very little crime, very little anything, beautiful
11 neighborhood. And to put a low-rent project in the area I
12 think is a disgrace.

13 I don't want my property depreciate; I want it
14 to go up because I'm investing more money in my property,
15 I want it to go up; I don't want to lose anything, and I
16 don't want any more traffic. We have enough trouble with
17 Fence Row now with people speeding up and down; we're
18 trying to do something about that, get some bumps or
19 something.

20 But to put in projects in this area, it's a
21 beautiful area, nice area, nice area of Austin, and to put
22 low-rent projects in I think is a disgrace. Homes, yes, I
23 don't mind; I wouldn't mind nice homes in back of my
24 house, even duplexes, but not low income, no. It

1 attracts -- there are good citizens and bad citizens, good
2 neighbors and bad; it attracts too many low-type people.
3 There's going to be a lot of crime over there, going to be
4 narcotics and everything, children disappearing, it's just
5 going to be a disaster, and I'm totally upset with it.

6 Thank you.

7 (Applause.)

8 MS. MEYER: Thank you. Jesus Mares? You don't
9 want to speak? Patricia Olson?

10 MS. OLSON: Hi. My name is Patricia Olson, and
11 I live at 5806 Fence Row. I bought a house out there
12 about 12 years ago and at this point we don't need that;
13 we don't need this type of project. I don't know how many
14 people know about this project. My ex-husband used to
15 live over at the housing with the City of Austin and I've
16 been places like that. I tell you, east Austin is
17 somewhere else around here.

18 The lady at the beginning, she asked if it is
19 Section 8. From the looking and the preaching and the
20 apartments that I know, that's what they are. You don't
21 have an answer, you say, but that's okay because sooner or
22 later we will find out.

23 Number two, my concern is about my property.
24 We try to upgrade ourselves and not under-grade ourselves.

1 When we would have so many people in this low-income
2 apartments, what do you think our property value will be?

3 It goes down the drain.

4 So in other words, now my question it is if we
5 go ahead with this project, so what are we going to do
6 with property tax? Are we going to lower down our
7 property tax, because definitely our property will go low
8 and why we not lower down my property tax then if we want
9 to have this type of project in our neighborhood. I don't
10 think that's right.

11 And another thing, I never receive anything to
12 my house except the last night I find something on my
13 door. It said if you don't show up, your opinion will not
14 be counted. Wait a minute here, last minute people
15 counted, and if I no show up I will not count. Why we no
16 being notified all these things that is going on? It's
17 hard working people, me as a single parent, I try very
18 hard to upgrade my house and all of a sudden right now
19 it's a bad time to sell your home and that's why the
20 project all of a sudden is coming in because people they
21 wear two feet in one shoe, they cannot make a move
22 because, believe me, my property if I can sell it right
23 now, I will get the hell out of here -- excuse my
24 French -- but because the value is so low right now, I

1 cannot do that, I'm stuck.

2 So I hope that really somebody that has good
3 heart dig into it, something that can be done about this.

4 (Applause.)

5 MS. MEYER: Carol Lee Chase?

6 MS. CHASE: My name is Carol Lee Chase; I live
7 at 5710 Fence Row. I had heard nothing about this until
8 somebody had the decency to put a flyer on my door
9 yesterday and I found out about it.

10 I'm a single woman, I've lived in that house
11 for about 12 years now. I love my house. It's my home
12 and it's the only home I've ever had. And looking at my
13 financial status and in the future, it's probably the only
14 home I ever will have.

15 I love the neighborhood; there's beautiful
16 people there; I have friends all over the neighborhood;
17 it's the best one I've ever lived in. And the children
18 there, we look out for them. There's children everywhere,
19 we look out for them; we look out for each other, we take
20 care of each other. To call the cops in that neighborhood
21 on something, a lot of the time they won't even show up,
22 so we have to look out for each other and take care of
23 each other.

24 It's just a wonderful place to live and most of

1 us if we could afford something nicer, we'd probably be
2 there, but we can't, so we're doing the best we can with
3 what we've got to live in a wonderful neighborhood and get
4 along with our neighbors. This sort of thing, I've spent
5 most of my life living around this sort of thing and
6 there's just a difference there, and I think that
7 difference is going to sully our neighborhood and it's
8 going to really mess up the integrity of it.

9 And as far as through streets go, there's too
10 much speeding down there anyway now. There's kids all
11 over the place. Every family probably has about three
12 kids at least, and there's just too many children out
13 there for that kind of traffic. And there's too many
14 children over there to have that kind of neighborhood
15 around it as well.

16 Even now we're finding -- just over the past
17 few months we're finding -- like at the dead end across
18 the street from my house we're finding condoms; we're
19 finding needles; we're seeing hookers parked over there.
20 You know, that's not right, and I don't want to add to
21 that, and I think this would sully the integrity of our
22 neighborhood. That's all I have to say.

23 (Applause.)

24 MS. MEYER: Samuel Rivera? Would you state

1 your name, ma'am?

2 MS. RIVERA: My name is Ann Rivera, and I live
3 at 4806 Cottonwood Street. I've lived there since 1986;
4 my parents bought the house, and they had split up, so me
5 and my husband started a family there and bought the house
6 from them.

7 I would hate to see this next to our
8 neighborhood. Our neighborhood is so pleasant; I know
9 everybody that's in the neighborhood, and you know, we
10 have enough problems with the duplexes on the end of the
11 street and who they let in there, and now who are they
12 going to let in here.

13 And you're not telling me that there's going to
14 be 160 people there. There are two- bedroom duplexes down
15 the street and there's like five or six people living
16 there with four cars, so that's going to be too much
17 traffic already.

18 We bought this house to make a future there and
19 that's not a future that I want next to my neighborhood or
20 with my daughter. Thank you.

21 (Applause.)

22 MS. MEYER: That's all I have listed to speak.

23 Is there anybody else that would like to speak?

24 Could you just sign in, sir? Actually, I'll let you

1 speak and then you can sign in. Is there anybody else?
2 If you can just state your name for the record and then
3 you can sign in.

4 MR. CUNNINGHAM: I'm Ty Cunningham, and I'm
5 representing the developer of the Los Arboles subdivision
6 which is a 325-lot subdivision under construction at this
7 time across the street from this apartment complex.

8 We are very supportive of this particular
9 product, we know what the mix will be and the programs
10 available for helping people get credit counseling and
11 move up to actual home ownership in our particular
12 subdivision. We know the quality of the product that has
13 been produced by this development group, and we feel like
14 it would be an attribute to the neighborhood, including
15 our subdivision, and with the density and quality and the
16 sensitivity to the water features in the area, we think it
17 would enhance the area and provide a good start for
18 families moving up into home ownership in the subdivision
19 across the street called Los Arboles, also what is known
20 as Viewpoint at Williamson Creek. So we hope you will
21 look at it favorably.

22 MR. SIFUENTES: He's a developer, ma'am?

23 MR. CUNNINGHAM: I represent the KB Homes
24 Viewpoint project across the street.

1 MR. SIFUENTES: He had a chance to speak. Will
2 he also be available here to answer questions?

3 MS. MEYER: Well, he's not the developer for
4 this project.

5 MR. SIFUENTES: Then he should not have spoke.

6 MS. MEYER: Well, it's a public hearing, sir.
7 Anyone can speak.

8 MR. SIFUENTES: I think it was very unfair.
9 Would you make a note of that just for the reporter.
10 Okay?

11 UNIDENTIFIED SPEAKER FROM AUDIENCE: I'll let
12 you know that the subdivision they're putting in is
13 flooding my house today from the rain because they've
14 taken all the vegetation out of that greenbelt and now
15 there's three-foot-high water on the side of my house.
16 There's a sinkhole at the end of the street on Cypress
17 Bend that's three feet deep. It was not there yesterday.

18 THE REPORTER: I'm not getting any of this.

19 MS. MEYER: You're going to need to speak into
20 the microphone if you want to be heard.

21 (General discussion among audience.)

22 MS. MEYER: Mr. Manley, do you want to speak?
23 If you want to make a public comment, just go ahead and
24 make it and then we're going to have a question-and-answer

1 here in a minute.

2 MR. MANLEY: I picked this up so she can hear
3 on the recording, and I'll face you because you'll hear me
4 better, I think, if that works for you.

5 I'm an attorney, I'm also an investment banker,
6 and I have worked with the developers on this project, so
7 I begin by saying that I have been working on developing
8 this deal on behalf of the developer for over two years.
9 In the course of doing that, we have had, I would be
10 willing to bet, at least six meetings with the
11 neighborhood associations that comprise this area, and
12 that includes Franklin Park, Kensington Park, Peppertree,
13 SCAN as a whole, the umbrella organization, and all the
14 other groups that make up that organization.

15 We have met with Diane and Bruce Sanders. We
16 have met in their home; we've met in other locations;
17 we've been all over this. We have been to the planning
18 commission -- the zoning and planning commission for the
19 city on three or four separate occasions; we went to the
20 city council twice; we had zoning revisions to this
21 property.

22 One of the things I'd like to share with you,
23 to begin with, is first of all we had 30 acres under
24 contract over here across the street. The first thing

1 that we wanted to do was to look at that whole development
2 and say what makes sense here in the context of doing a
3 good quality development that fits the character of the
4 neighborhood.

5 I used to be a director of TDHCA, I know what
6 the product is. We are not talking about Section 8
7 housing here, and if I may, I can talk to you about that
8 in the Q&A period. This is a totally different kind of
9 housing.

10 What we looked at when we first saw the
11 development was that approximately 14 acres that backs up
12 to the Franklin Park -- are there Franklin Park residents
13 here, anybody who lives in Franklin Park? Well, there's a
14 big open field back there at the end of Pleasant Valley.
15 Part of it belongs to Nelda de la Vrata; the part that
16 we're talking about is the part to the right when you face
17 it off the street and it's about 14 acres that goes from
18 the back of Franklin Park all the way up to the creek.
19 That land was zoned for multifamily high density
20 development, all of it, MF-2 and MF-3.

21 Our calculations would indicate that under the
22 zoning that was in place when we started working in this
23 deal over 2-1/2 years ago, would allow 440 units to be
24 built right behind Franklin Park. We said that doesn't

1 make any sense, the only way you could access it was off
2 Pleasant Valley Road, that's right through the center of
3 Franklin Park subdivision, that doesn't make any sense at
4 all.

5 We went to the neighborhoods and, as Mr. Sloan
6 pointed out, we said we're contemplating doing a
7 development, we'd like to talk to you about what we think
8 needs to happen and we'd like to get your agreement with
9 what we're doing. We got kicked out, practically, of the
10 first meeting we went to and they were every bit as mad as
11 you are here tonight, every bit.

12 We kept talking and we kept coming back and we
13 kept negotiating. What we ended up doing with that 30
14 acres was saying all that dense development in the back we
15 would do away with and change it into SF-2 which is lower
16 density than what your homes are -- which I'm assuming are
17 SF-3 typically. SF-2 means quarter acre lots; we even
18 limited the size of the buildings to 25 feet in height so
19 you couldn't get real high buildings to look out over
20 people. We did a 200-foot setback from the creek and
21 dedicated it as perpetual greenbelt parkland.

22 We then talked about how could we limit impact
23 to the residents along Maufrais which runs behind it. We
24 went to each of the individuals that lived along Maufrais

1 and talked to them about what it is they would like to see
2 if we were developing this property. What they told us
3 was that we don't want traffic on Maufrais, we don't want
4 to have to look at your project, we don't want to have to
5 fight with the development that's going to come in on
6 there. We said fine, we hear you, we understand that, and
7 we signed agreements with at least two of the families
8 that lived along Maufrais to say that we would not dump
9 traffic out onto Maufrais which is the short street over
10 here at the bottom of the page.

11 We said we won't put the traffic out there;
12 you'll see that we've got a concrete way to exit right
13 there. That's a fire exit, emergency only. It's going to
14 have a crash gate on it: You can't go in and out on a
15 regular basis, only for the fire trucks.

16 We moved everything up to Nuckols Crossing
17 because I think I heard this gentleman say they didn't
18 like the fact that Nuckols Crossing was an entrance and
19 exit. We agreed with the neighbors to put in a turn lane
20 off of Nuckols Crossing deep enough to stack four cars
21 waiting to get in and out so that it would help in the
22 ingress and egress.

23 We said we're going to fence the whole
24 property, we're going to gate it. The property has a

1 daycare center, it's got a children's learning lab, a
2 computer lab; it has got practically everything you can
3 think of that a neighborhood in a village context would
4 like to see in its organization. We negotiated with the
5 Franklin Park residents in particular to say that we would
6 create a neighborhood advisory group to be appointed by
7 the neighbors -- we couldn't pick them, they would pick
8 them -- and we would consult with them on a monthly basis
9 about what's going on in that apartment property, how it's
10 being handled, and they would have the ability to have
11 direct dialogue with our management company to talk about
12 things they didn't like and what we had to fix and how to
13 fix it.

14 We put that in a zoning modification agreement
15 filed with the city, that was the condition on which the
16 zoning change was granted, stating that we would cooperate
17 with the community in that fashion. We fully intend to do
18 that. We have done everything we know how to do to turn
19 this into a really great development. We have worked with
20 the neighbors consistently and cohesively.

21 The Stavinochas, who are here tonight and who
22 are objecting to a lot of this, did that at those same
23 meetings and at the city council meeting. We recognized
24 their concerns; we have tried to address as many as we

1 could. It appears that we haven't been able successfully
2 to address all their fears or they wouldn't have
3 communicated them all to you as well, but they have been
4 well aware of it for well over a year.

5 What we're saying to you is that the developer,
6 at least, has not been trying to hide behind anything. We
7 have been out there openly in the community talking to
8 people on a regular, consistent basis.

9 Now let me talk about the residents. this
10 property will be 100 percent for people at 60 percent of
11 median income. Does anybody here know what the median
12 income is in Austin? \$71,100.

13 That means the qualifying residents for a
14 family of four can make over \$42,000 a year. Now, I'm not
15 going to make any aspersions here at all, but I'm going to
16 tell you that a substantial majority of those people would
17 be the people that live next door to you today.

18 VOICE FROM AUDIENCE: What's the minimum?

19 MR. MANLEY: The minimum is going to be people
20 who can afford to pay the rent, because this is not
21 subsidized beyond the tax credits. There's no Section 8
22 going into this deal, although federal law and by state
23 law we have to make it available for people with Section
24 8.

1 Excuse me, but Robbye can explain that to you,
2 but I will tell you this, the apartment owner, developer
3 and manager have the right to interview and take credit
4 questionnaires from every person who applies to live
5 there. They also have the ability to do credit checks and
6 they have the ability to do criminal check and background
7 check, and they fully intend to do all of that.

8 This same developer has a property in Houston,
9 Texas; he got 700 applications to fill up a project of 220
10 units All of those people were qualified income levels;
11 he didn't take them in because they had credit problems or
12 criminal check problems.

13 What I'm telling you is this is a quality
14 development. This is not a Section 8 project, it is not
15 going to be a Section 8 project. And with that, I think
16 I've overrun my time.

17 MS. MEYER: If there's not any more public
18 comment, then I'm going to close the hearing itself, and
19 if you have questions for the developer, we'll stay as
20 long as we need to for you to answer those questions. If
21 you have questions of the department, I'll be glad to
22 answer those also. Is there anybody else that wants to
23 make public comment?

24 (No response.)

1 MS. MEYER: Let the record show it is 7:04, and
2 the meeting is now adjourned.

3 (Whereupon, at 7:04 p.m., the public hearing
4 was concluded.)

C E R T I F I C A T E

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IN RE: Public Hearing on Woodway Village

LOCATION: Austin, Texas

DATE: October 8, 2002

I do hereby certify that the foregoing pages, numbers 1 through 37, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Patricia Alex before the Texas Department of Housing and Community Affairs.

(Transcriber) 10/17/02
(Date)

On the Record Reporting, Inc.
3307 Northland, Suite 315
Austin, Texas 78731

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS Preservation Incentives Program Status Summary

BACKGROUND

In February of 2002 the Department's Board approved the issuance of \$10,000,000 in Taxable Junior Lien Bonds. Because the Junior Lien bonds are repaid by revenue from the senior bonds, mortgage loans made from the Junior Lien proceeds can be made with flexible terms and low interest rates. At the same board meeting, an allocation of \$2,000,000 from the Junior Lien proceeds was approved for the preservation of affordable multifamily housing.

In May, the Department published a notice of available funds ("NOFA") for a Preservation Incentive Program, a pilot program funded with the \$2,000,000 in Junior Lien Proceeds, and began to accept applications. Because of the nature of timing preservation transactions, the funds are being made available through an open cycle, on a first-come-first-considered basis, with fallback provisions to prioritize transactions in case of an over-subscription. To date, this approach has worked well. In July, the Board approved the first four transactions under the program, and allocated an additional \$2,000,000 of Junior Lien bond proceeds to the program.

CURRENT STATUS

Below is a summary of funding activity under the program:

Fund Allocations	Date	Amount
Board Allocation (2002 Jr. Lien Proceeds)	2/21/2002	2,000,000
Board Allocation (2002 Jr. Lien Proceeds)	7/29/2002	2,000,000
Total		4,000,000

Project Awards	Date	Amount
Award (Walnut Hills Apts.)	7/29/2002	282,355
Award (Colony Park Apts.)	7/29/2002	633,078
Award (Briarwood Apts.)	7/29/2002	540,000
Declination by Applicant (Briarwood Apts.)	10/11/2002	(540,000)
Award (La Mirage Apts.)	7/29/2002	540,000
Declination by Applicant (La Mirage Apts.)	10/11/2002	(540,000)
Total		915,433

Pending Applications	Date	Amount
Pending Application (Cedar Ridge Apts.)	7/19/2002	1,000,000
Pending Application (Cameron Apts.)	8/26/2002	852,240
Total		1,852,240

Funds Available	1,232,327.
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TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

**Preservation Incentives Program
Source: 2002 Junior Lien Proceeds**

PROJECT INFORMATION

Project: Cedar Ridge Apartments
Applicant: Magnolia Village, Ltd.
Principals: Larry Washburn, Charles Washburn, James Washburn
City/County Location of Project: Dayton, Liberty County
Construction Date: 1978
Activity: Rehabilitation
Total # Units in Project: 80 Total Units
Existing Affordable Use Restrictions: USDA, Rural Development Section 515 Loan occupancy restrictions for low- to moderate-income families. Affordability requirements expire in 2005.
Existing Loan: \$1,690,000 (approx.) outstanding, maturing in 2035.

LOAN TERMS

Award Amount: \$1,000,000
Construction Period: 1 Year
Interest Rate: 0.00% during construction; 3.00% beginning at amortization.
Loan Term: 30 Years. Amortization over 30 years begins one year after closing. Balance is due at end of term.
TDHCA Lien Position: Parity with existing USDA loan
Commitment Fee: 1% of Loan Amount
Escrows: Provisions will be made for the escrow of tax and insurance payments.
Prepayment: No prepayment restrictions.
Gaurantee: Generally non-recourse. All obligations of the Borrower to indemnify the issuer, to pay certain fees and expenses, and to comply with appropriate tax covenants will be full recourse obligations against the Borrower.
Compliance Fee: To be determined.

REGULATORY TERMS

Occupancy Restrictions: 80 Units restricted to occupancy by households earning 60% AMFI and below
Rent Restrictions: 80 Units restricted to 40% AMFI Rents
Special Needs: 5% of the units are, or will be designed to be accessible to persons with mobility impairments. 2% of the units are or will be designed to be accessible to persons with sight or hearing impairments.
Affordability Term: 30 Years
Other: Applicant will be precluded from prepaying the USDA Loan currently on the property. USDA use restrictions to provide affordable housing must be maintained.

RECOMMENDATION

Staff recommend approval subject to the conditions of TDHCA's underwriting review.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTI FAMILY CREDIT UNDERWRITING ANALYSIS**

DATE: November 5, 2002 **PROGRAM:** Multifamily Housing Preservation Incentives Program (PIP) **FILE NUMBER:** 2002-005P

DEVELOPMENT NAME

Cedar Ridge Apartments

APPLICANT

Name: Magnolia Village, Ltd **Type:** For Profit Non-Profit Municipal Other
Address: 19276 F.M. 1485 **City:** New Caney **State:** TX
Zip: 77357 **Contact:** James E. Washburn **Phone:** (281) 689-2030 **Fax:** (281) 689-0103

PRINCIPALS of the APPLICANT

Name: <u>Larry C. Washburn</u>	(%): <u>1.67</u>	Title: <u>Co-General Partner</u>
Name: <u>Charles E. Washburn</u>	(%): <u>1.67</u>	Title: <u>Co-General Partner</u>
Name: <u>James M. Washburn</u>	(%): <u>1.66</u>	Title: <u>Co-General Partner</u>
Name: <u>R. A. Washburn</u>	(%): <u>95</u>	Title: <u>Limited Partner</u>
Name: <u>LCJ Management, Inc.</u>	(%): <u>95</u>	Title: <u>Developer, Property Manager</u>

CO-GENERAL PARTNER

Name: Larry C. Washburn **Type:** For Profit Non-Profit Individual Other
Address: 12023 Bobwhite **City:** Houston **State:** TX
Zip: 77035 **Contact:** Larry C. Washburn **Phone:** (281) 689-2030 **Fax:** (281) 689-0103

CO-GENERAL PARTNER

Name: Charles E. Washburn **Type:** For Profit Non-Profit Individual Other
Address: 13722 Oleoke **City:** Houston **State:** TX
Zip: 77015 **Contact:** Charles E. Washburn **Phone:** (281) 689-2030 **Fax:** (281) 689-0103

CO-GENERAL PARTNER

Name: James M. Washburn **Type:** For Profit Non-Profit Individual Other
Address: 15842 Kimberlee Lane **City:** Houston **State:** TX
Zip: 77049 **Contact:** James M. Washburn **Phone:** (281) 689-2030 **Fax:** (281) 689-0103

PROPERTY LOCATION

Location: 1907 North Winfree Street **QCT** **DDA**
City: Dayton **County:** Liberty **Zip:** 77535

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS**

REQUEST			
Amount	Interest Rate	Amortization	Term
\$1,000,000	3%	30 yrs	18 yrs
Other Requested Terms:	Negotiation with USDA-RD required regarding lien positioning		
Proposed Use of Funds:	Rehabilitation		

SITE DESCRIPTION			
Size:	<u>4.117</u> acres	<u>179,337</u> square feet	Zoning/ Permitted Uses: <u>No zoning</u>
Flood Zone Designation:	<u>Zone X</u>	Status of Off-Sites:	<u>Fully improved</u>

DESCRIPTION of IMPROVEMENTS

Total Units: 80 **# Rental Buildings:** 5 **# Common Area Bldngs:** 1 **# of Floors:** 2 **Age:** 24 yrs

Number	Bedrooms	Bathroom	Size in SF
80	2	1.5	760

Net Rentable SF: 60,800 **Av Un SF:** 760 **Common Area SF:** 1,200 **Gross Bldng SF** 62,000

Property Type: Multifamily SFR Rental Elderly Mixed Income Special Use

CONSTRUCTION SPECIFICATIONS

STRUCTURAL MATERIALS

Wood frame on a post-tensioned concrete slab, 100% wood siding exterior wall covering, drywall interior wall surfaces, composite shingle roofing

APPLIANCES AND INTERIOR FEATURES

Carpeting & vinyl flooring, range & oven, hood & fan, dishwasher, refrigerator, microwave oven, fiberglass tub/shower, laminated counter tops, individual water heaters

ON-SITE AMENITIES

1,200-SF community building with activity room, laundry facilities, kitchen, restrooms, central mailroom, swimming pool, equipped children's play area, perimeter fencing

Uncovered Parking: 159 spaces **Carports:** 0 spaces **Garages:** 0 spaces

OTHER SOURCES of FUNDS

EXISTING PERMANENT FINANCING

Source: USDA-Texas Rural Development **Contact:** Gene Pavlat

Principal Amount: \$1,476,000 **Interest Rate:** 1% (subsidized from 10.625%)

Principal Amount: \$242,800 **Interest Rate:** 1% (subsidized from 10.625%)

Additional Information: Closed on December 10, 1985

Amortization: 50 yrs **Term:** 50 yrs

Annual Payments: \$37,596 & \$6,288 **Lien Priority:** 1st

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS**

VALUATION INFORMATION			
ASSESSED VALUE			
Land:	\$52,880	Assessment for the Year of:	2002
Building:	\$695,430	Valuation by:	Liberty County Appraisal District
Total Assessed Value:	\$748,310	Tax Rate:	2.8455

EVIDENCE of SITE or PROPERTY CONTROL

Type of Site Control: Deed of trust

REVIEW of PREVIOUS UNDERWRITING REPORTS

No previous reports.

PROPOSAL and DEVELOPMENT PLAN DESCRIPTION

Description: Cedar Ridge Apartments is a proposed rehabilitation development of 80 units of affordable housing located in northwest Dayton. The development was originally built in 1978 under the U.S. Department of Agriculture's Rural Development (USDA-RD) Section 515 Program. The property went into foreclosure in April 1985 and in December 1985 the property was acquired and rehabilitated by the current owners, Magnolia Village, Ltd. It is comprised of five residential buildings, each with sixteen two-bedroom units.

The apartment buildings are distributed evenly throughout the site, with the community building, mailboxes, and playground located near the entrance to the site. The 1,200-square foot community building includes a community room, kitchen, restrooms, and laundry facilities.

Existing Subsidies: All 80 of the development's units are restricted under the USDA-RD Section 515 program. Currently the basic rents are set at \$330 for all of the two-bedroom units, which represent 100% of the units. Proposed rents are \$415 per unit, which will require approval by USDA-TxRD. Receipt, review, and acceptance of documentation from USDA-TxRD approving an increase in the unit rents to the levels proposed in the submitted rent schedule is a condition of this report. Currently 13 of the units receive rental assistance from Tx-RD, and the Applicant has applied for 66 additional units of rental assistance in July of 2002. The Applicant verbally indicated on September 19, however, that it was unlikely that the additional rental assistance would be awarded, and that therefore the tenants would be paying the entire rent amount.

Development Plan: The buildings are currently 66% occupied and in a very deteriorated state. The owner states, "the property is experiencing severe occupancy problems as a result of the need for extensive rehabilitation. Reserve accounts have not been funded since July 2001, as this money has been used to sustain operations. The partnership owes the management company approximately \$75,000 in back management fees and payroll expenses."

The architect's scope of work includes repair and/or replacement of flooring, walls and ceilings, doors and windows, cabinets and trim, appliances, mechanical, electrical, plumbing, finishes, and general exterior and site work. The rehabilitation will be phased to minimize displacement of current residents. Building number one is currently the building containing the most vacancies, and will be designated as the first building to be rehabilitated. During the rehabilitation the existing residents will be relocated within the complex to vacant units at the owner's expense.

Supportive Services: No supportive services were indicated in the application to be provided to tenants.

Schedule: The Applicant anticipates construction to begin in November of 2002 and to be completed in July of 2003.

POPULATIONS TARGETED

The development will continue to target extremely low-income households through its participation in the USDA TxRD Section 515 rental assistance program. The proposed rents are affordable to residents below the 40% AMFI level for this market with income levels allowed at 60% AMFI.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS**

MARKET HIGHLIGHTS

A market study was not submitted, as USDA-RD-financed projects are not required to submit this report.

SITE and NEIGHBORHOOD CHARACTERISTICS

The subject is located in the city of Dayton, Texas which is located in southeast Texas approximately 35 miles northeast of Houston. The site is located one mile northwest of the business core of the city of Dayton. The primary thoroughfare providing access to the site is Winfree Street, which connects to Highway 90.

Site Inspection Findings: TDHCA staff performed a site inspection on October 7, 2002 and found the location to be acceptable for the development.

HIGHLIGHTS of SOILS & HAZARDOUS MATERIALS REPORT(S)

A Phase I Environmental Site Assessment report was not included, as USDA-RD-financed projects are not required to submit this report.

OPERATING PROFORMA ANALYSIS

Income: All 80 of the development's units are restricted under the USDA TxRD Section 515 program. The submitted rent schedule indicates net tenant-paid rents of \$415, which are pending TxRD approval, and both the Applicant's and the Underwriter's potential gross rent estimates are based on these rents. These rents are slightly above the 30% AMI level, and TDHCA PIP staff has agreed to restrict rents at the 40% AMI level as a fallback restriction if the TxRD restrictions were to expire during the projected affordability period. The Applicant used a secondary income estimate of \$2.57/unit/month, but the Underwriter used the minimum TDHCA guideline of \$5 based on the 2001 historical operating data of \$5.08 submitted in the application. The Applicant also used a vacancy and collection loss factor of 11%; the net effect of these differences is that the Underwriter's effective gross income estimate exceeds the Applicant's by \$16K (4.35%).

Expenses: The Applicant's total operating expense estimate of \$2,695/unit is 10% lower than the Underwriter's TDHCA database-derived estimate of \$3,270/unit, but is somewhat substantiated by the 2001 historical expenses of \$2,783/unit without reserves. Most of the Applicant's line item expenses differ significantly as compared to the Underwriter's estimates, particularly management (\$6.3K higher), payroll (\$14.8K lower), repairs and maintenance (\$5.2K higher), utilities (\$17.5 lower), water, sewer, and trash (\$17.2 higher), property insurance (\$4K higher), property tax (\$11.4K lower), and reserve for replacements (\$11.5K lower). The Applicant included only \$157/unit in reserves for replacements instead of the TDHCA requirement of \$300, and did not include compliance fees.

Conclusion: The Applicant's projected net operating income is not within 5% of the Underwriter's estimate; therefore, the Underwriter's proforma will be used to determine the development's ability to service debt. Both the Applicant's and the Underwriter's proformas result in debt coverage ratios (DCR) that are within the Department's guideline of 1.10 to 1.25.

CONSTRUCTION COST ESTIMATE EVALUATION

Direct Construction Cost: The Applicant submitted a detailed scope of work required by unit but did not include any costs except a total of \$920,320 for all rehabilitation work. A detailed scope of work including cost information was provided by W.S. Allen & Associated, Inc. For the purposes of this analysis the Applicant's direct construction cost estimate of \$11,504/unit is assumed to be accurate as submitted. It is notable that the Applicant included no contingency allowance in the construction budget, although TDHCA allows a 10% maximum amount.

Fees: The Applicant's contractor's general and administrative fees and profit exceed the TDHCA maximums of 2% and 6% by a combined total of \$3,858. The Underwriter moved this overage to contingency allowance.

Conclusion: The Applicant's total development cost, as adjusted, is regarded as acceptable and will be used to determine the development's total financing requirement for the purposes of this analysis. Should the detailed cost information required above suggest the costs reflected by the Applicant are in error a re-evaluation of the loan amount would be necessary.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS**

FINANCING STRUCTURE ANALYSIS

The Applicant intends to finance the entire rehabilitation with the requested PIP loan of \$1,000,000, at a requested interest rate of 3% with a term of 18 years and a 30-year amortization schedule. Currently, two USDA-RD loans of \$1,476,000 and \$242,800, respectively, are being serviced at a subsidized interest rate of 1% and an amortization schedule based on terms of 50 years.

Financing Conclusions: Based on the Applicant's total rehabilitation cost estimate, the requested loan amount of \$1,000,000 appears to be substantiated. In addition, the Underwriter's proforma indicates that the loan can be serviced at the requested terms of 3% interest, with a 30-year amortization schedule. Although it is not common practice for USDA-RD to waive its first lien position, TDHCA PIP staff have indicated an intention to negotiate for a parity position.

REVIEW of ARCHITECTURAL DESIGN

The development is comprised of two-story wood frame buildings with brick veneer and wood siding exterior wall coverings and pitched roofs. The unit floor plans appear to be functional, with adequate storage space.

IDENTITIES of INTEREST

The Owner/Applicant is related to both the current property manager and proposed general contractor. These are common identities of interest for applications submitted to the Department.

APPLICANT'S/PRINCIPALS' FINANCIAL HIGHLIGHTS, BACKGROUND, and EXPERIENCE

Financial Highlights:

- The Applicant/Owner, Magnolia Village, Ltd., submitted an audited financial statement as of December 31, 2001 reporting total assets of \$827K consisting of restricted deposits, escrow deposits, and replacement reserves, land, buildings, and equipment. Liabilities totaled \$1.8M, resulting in a partners' deficit of (\$956K).
- R.A. Washburn, 95% principal/limited partner of the Applicant, failed to submit personal financial statements. Receipt, review, and acceptance of personal financial statements is a condition of this report.
- Larry C. Washburn, Charles E. Washburn, and James M. Washburn principals/general partners of the Applicant, submitted financial statements as of July 18, 2002.

Background & Experience:

- Larry C. Washburn, Charles E. Washburn, and James M. Washburn indicated previous participation in nineteen LIHTC and/or USDA-RD developments totaling 1,054 units since 1981.

SUMMARY OF SALIENT RISKS AND ISSUES

- The rehabilitation costs are solely dependent upon the estimate made by the Applicant.

RECOMMENDATION

- RECOMMEND APPROVAL OF A PRESERVATION INCENTIVES PROGRAM AWARD NOT TO EXCEED \$1,000,000, STRUCTURED AS AN 18-YEAR TERM LOAN, FULLY AMORTIZING OVER 30 YEARS AT 3% INTEREST.

TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS

CONDITIONS

1. Receipt, review, and acceptance of documentation from USDA-RD approving an increase in the unit rents to the levels proposed in the submitted rent schedule;
2. Receipt, review, and acceptance of a personal financial statement for R.A. Washburn, 95% principal/limited partner of the Applicant

Underwriter:

Carl Hoover

Date: November 5, 2002

Credit Underwriting Supervisor:

Jim Anderson

Date: November 5, 2002

Director of Credit Underwriting:

Tom Gouris

Date: November 5, 2002

MULTIFAMILY FINANCIAL ASSISTANCE REQUEST: Comparative Analysis

Cedar Ridge Apartments, Dayton, Preservation Incentives Program #2002-005P

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Net Rent per Unit	Rent per Month	Rent per SF	Int Pd Util	Wtr, Swr, Trsh
PR (40%)	79	2	1.5	760	\$536	\$415	\$32,785	\$0.55	\$117.83	\$25.87
EO	1	2	1.5	760	\$536	0	0	0.00	\$117.83	\$25.87
TOTAL:	80		AVERAGE:	760	\$536	\$410	\$32,785	\$0.54	\$117.83	\$25.87

INCOME				TDHCA	APPLICANT				
Total Net Rentable Sq Ft 60,800				\$393,420	\$393,420				
POTENTIAL GROSS RENT				4,800	2,467	\$2.57	Per Unit Per Month		
Secondary Income Per Unit Per Month: \$5.00				0	0				
Other Support Income: (describe)									
POTENTIAL GROSS INCOME				\$398,220	\$395,887				
Vacancy & Collection Loss % of Potential Gross Income: -7.50%				(29,867)	(43,548)	-11.00%	of Potential Gross Rent		
Employee or Other Non-Rental Units or Concessions				0					
EFFECTIVE GROSS INCOME				\$368,354	\$352,339				
EXPENSES				PER SQ FT	PER UNIT	% OF EGI	PER SQ FT	PER UNIT	% OF EGI
General & Administrative	6.45%	\$297	\$0.39	\$23,748	\$21,804	\$0.36	\$273	6.19%	
Management	6.11%	281	0.37	22,499	28,800	0.47	360	8.17%	
Payroll & Payroll Tax	17.55%	808	1.06	64,632	49,850	0.82	623	14.15%	
Repairs & Maintenance	7.55%	348	0.46	27,821	33,000	0.54	413	9.37%	
Utilities	7.83%	361	0.47	28,845	11,300	0.19	141	3.21%	
Water, Sewer, & Trash	6.74%	310	0.41	24,835	42,000	0.69	525	11.92%	
Property Insurance	3.01%	139	0.18	11,104	15,150	0.25	189	4.30%	
Property Tax 2.8455	9.27%	427	0.56	34,146	22,750	0.37	284	6.46%	
Reserve for Replacements	6.52%	300	0.39	24,000	12,530	0.21	157	3.56%	
Other Expenses:	0.00%	0	0.00		0	0.00	0	0.00%	
TOTAL EXPENSES	71.03%	\$3,270	\$4.30	\$261,631	\$237,184	\$3.90	\$2,965	67.32%	
NET OPERATING INC	28.97%	\$1,334	\$1.76	\$106,723	\$115,155	\$1.89	\$1,439	32.68%	
DEBT SERVICE									
USDA-TxRD Loan	10.19%	\$469	\$0.62	\$37,524	\$37,594	\$0.62	\$470	10.67%	
USDA-TxRD Loan	1.68%	\$77	\$0.10	6,173	6,290	\$0.10	\$79	1.79%	
TDHCA PIP Loan	13.73%	\$632	\$0.83	50,592	50,592	\$0.83	\$632	14.36%	
NET CASH FLOW	3.38%	\$155	\$0.20	\$12,433	\$20,679	\$0.34	\$258	5.87%	
AGGREGATE DEBT COVERAGE RATIO				1.13	1.22				
ALTERNATIVE DEBT COVERAGE RATIO				1.13					

CONSTRUCTION COST					TDHCA	APPLICANT	PER SQ FT	PER UNIT	% of TOTAL
Description	Factor	% of TOTAL	PER UNIT	PER SQ FT					
Acquisition Cost (site or bld)	0.00%	0.00%	\$0	\$0.00	\$0	\$0	\$0.00	\$0	0.00%
Off-Sites	0.00%	0.00%	0	0.00	0	0	0.00	0	0.00%
Sitework	8.05%	8.05%	1,006	1.32	80,512	78,912	1.30	986	7.89%
Direct Construction	72.34%	72.34%	9,042	11.90	723,397	724,997	11.92	9,062	72.50%
Contingency	0.48%	0.39%	48	0.06	3,858	3,858	0.06	48	0.39%
General Req'ts	6.00%	4.82%	603	0.79	48,235	48,240	0.79	603	4.82%
Contractor's G & A	2.00%	1.61%	201	0.26	16,078	16,078	0.26	201	1.61%
Contractor's Profi	6.00%	4.82%	603	0.79	48,235	48,235	0.79	603	4.82%
Indirect Construction	5.68%	5.68%	710	0.93	56,768	56,768	0.93	710	5.68%
Ineligible Costs	0.00%	0.00%	0	0.00	0	0	0.00	0	0.00%
Developer's G & A	0.00%	0.00%	0	0.00	0	0	0.00	0	0.00%
Developer's Profit	0.00%	0.00%	0	0.00	0	0	0.00	0	0.00%
Interim Financing	2.29%	2.29%	286	0.38	22,912	22,912	0.38	286	2.29%
Reserves	0.00%	0.00%	0	0.00	0	0	0.00	0	0.00%
TOTAL COST	100.00%	100.00%	\$12,500	\$16.45	\$999,994	\$1,000,000	\$16.45	\$12,500	100.00%
Recap-Hard Construction Costs	92.03%	92.03%	\$11,504	\$15.14	\$920,314	\$920,320	\$15.14	\$11,504	92.03%

SOURCES OF FUNDS				RECOMMENDED		
TDHCA PIP Loan	100.00%	\$12,500	\$16.45	\$1,000,000	\$1,000,000	\$0
Additional Financing	0.00%	\$0	\$0.00	0	0	0
Additional Financing	0.00%	\$0	\$0.00	0	0	0
Deferred Developer Fees	0.00%	\$0	\$0.00	0	0	0
Additional (Excess) Funds Req	0.00%	(\$0)	(\$0.00)	(6)	0	1,000,000
TOTAL SOURCES				\$999,994	\$1,000,000	\$1,000,000

MULTIFAMILY FINANCIAL ASSISTANCE REQUEST (continued)

Cedar Ridge Apartments, Dayton, Preservation Incentives Program #2002-005P

PAYMENT COMPUTATION

Primary	\$1,476,000	Term	600
Int Rate	1.00%	DCR	2.84
Secondary	\$242,800	Term	600
Int Rate	1.00%	Subtotal DCR	2.44
Additional	\$1,000,000	Term	360
Int Rate	3.00%	Aggregate DCR	1.13

RECOMMENDED FINANCING STRUCTURE:

Primary Debt Service	\$37,524
Secondary Debt Service	6,173
Additional Debt Service	50,592
NET CASH FLOW	\$12,433

Primary	\$1,476,000	Term	600
Int Rate	1.00%	DCR	2.84
Secondary	\$242,800	Term	600
Int Rate	1.00%	Subtotal DCR	2.44
Additional	\$1,000,000	Term	360
Int Rate	3.00%	Aggregate DCR	1.13

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE

INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	\$393,420	\$405,223	\$417,379	\$429,901	\$442,798	\$513,324	\$595,083	\$689,864	\$927,120
Secondary Income	4,800	4,944	5,092	5,245	5,402	6,263	7,260	8,417	11,312
Other Support Income: (d)	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	398,220	410,167	422,472	435,146	448,200	519,587	602,343	698,281	938,432
Vacancy & Collection Los	(29,867)	(30,762)	(31,685)	(32,636)	(33,615)	(38,969)	(45,176)	(52,371)	(70,382)
Employee or Other Non-Re	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	\$368,354	\$379,404	\$390,786	\$402,510	\$414,585	\$480,618	\$557,168	\$645,910	\$868,049
EXPENSES at 4.00%									
General & Administrative	\$23,748	\$24,698	\$25,686	\$26,714	\$27,782	\$33,801	\$41,125	\$50,034	\$74,063
Management	22,499	23,174	23,870	24,586	25,323	29,357	34,032	39,453	53,022
Payroll & Payroll Tax	64,632	67,217	69,906	72,702	75,610	91,991	111,922	136,170	201,565
Repairs & Maintenance	27,821	28,934	30,091	31,295	32,546	39,598	48,176	58,614	86,763
Utilities	28,845	29,999	31,199	32,446	33,744	41,055	49,950	60,772	89,957
Water, Sewer & Trash	24,835	25,829	26,862	27,936	29,054	35,348	43,007	52,324	77,452
Insurance	11,104	11,548	12,010	12,491	12,990	15,805	19,229	23,395	34,630
Property Tax	34,146	35,512	36,932	38,410	39,946	48,600	59,130	71,940	106,489
Reserve for Replacements	24,000	24,960	25,958	26,997	28,077	34,159	41,560	50,564	74,848
Other	0	0	0	0	0	0	0	0	0
TOTAL EXPENSES	\$261,631	\$271,871	\$282,514	\$293,576	\$305,073	\$369,715	\$448,130	\$543,266	\$798,788
NET OPERATING INCOME	\$106,723	\$107,533	\$108,272	\$108,934	\$109,512	\$110,903	\$109,037	\$102,644	\$69,261
DEBT SERVICE									
First Lien Financing	\$37,524	\$37,524	\$37,524	\$37,524	\$37,524	\$37,524	\$37,524	\$37,524	\$37,524
Second Lien	6,173	6,173	6,173	6,173	6,173	6,173	6,173	6,173	6,173
Other Financing	50,592	50,592	50,592	50,592	50,592	50,592	50,592	50,592	50,592
NET CASH FLOW	\$12,433	\$13,243	\$13,982	\$14,644	\$15,222	\$16,613	\$14,748	\$8,354	(\$25,029)
DEBT COVERAGE RATIO	1.13	1.14	1.15	1.16	1.16	1.18	1.16	1.09	0.73

Developer Evaluation

Compliance Status Summary

Project ID #: 005P

LIHTC 9% LIHTC 4%

Project Name: Cedar Ridge Apartments

HOME HTF

Project City:

BOND SECO

Housing Compliance Review

Project(s) in material non-compliance

No previous participation

Status of Findings (individual compliance status reports and National Previous Participation and Background Certification(s) available)

Projects Monitored by the Department

reviewed 12 # not yet monitored or pending review 1

of projects grouped by score 0-9: 8 10-19: 3 20-29: 1

Members of the development team have been disbarred by HUD

National Previous Participation Certification Received N/A

Non-Compliance Reported _____

Completed by Jo En Taylor **Completed on** 10/28/2002

Single Audit

Status of Findings (any outstanding single audit issues are listed below)

single audit not applicable no outstanding issues outstanding issues

Comments: For Profit

Completed by Lucy Trevino **Completed on** 10/28/2002

Program Monitoring

Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments: Contract 53502 has not been monitored by Compliance Monitoring. It has a contract end date of 1997 and has been left open in the system by HOME program staff.

Completed by Ralph Hendrickson **Completed on** 10/28/2002

Community Affairs Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by EEF **Completed on** _____

Housing Finance Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by _____ **Completed on** _____

Housing Programs Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments: This developer has received several LIHTC extensions in the past.

Completed by S. Roth **Completed on** 10/31/2002

Multifamily Finance Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by Robbye Meyer **Completed on** 10/28/2002

Executive Director: _____ **Date Signed:** _____

Texas Department of Housing and Community Affairs

Section 8 Program

Request approval of TDHCA Section 8 Payment Standard for Housing Choice Vouchers.

BACKGROUND

The TDHCA Section 8 Program is required by the U. S. Department of Housing and Urban Development (HUD) to adopt a payment standard schedule that estimates voucher payment standard amounts for each Fair Market Rent (FMR) area in the Public Housing Authority (PHA) jurisdiction. The PHA must establish payment standard amounts for each unit size. Unit size is measured by the number of bedrooms (one-bedroom, two-bedroom, and so on).

TDHCA in operating as a PHA in non-participating jurisdictions may establish the payment standard amount for a unit size at any level between 90 percent and 110 percent of the published FMR for that rent size. TDHCA recommends establishing its payment standard at 100 percent of FMR and 110 percent of FMR due to updated utility allowance rates that exceed TDHCA former utility allowances.

In addition, TDHCA recommends asking HUD to increase payments to 110 percent and above of FMR if circumstances so warrant. Accordingly, we are requesting approval of the attached Payment Standards for TDHCA Section 8 Housing Choice Vouchers.

RECOMMENDATION BY SECTION 8 STAFF

Staff recommends approval of the Section 8 Payment Standards for Housing Choice Vouchers in accordance with 24 CFR Part 982.503.

RESOLUTION NUMBER 02-68

RESOLUTION OF THE BOARD OF DIRECTORS ADOPTING PAYMENT STANDARD FOR SECTION 8 HOUSING CHOICE VOUCHERS IN COMPLIANCE WITH 24 CFR 982.503

WHEREAS, the Texas Department of Housing and Community Affairs (the “Department”) has been duly created and organized pursuant to Chapter 2306, Texas Government Code, as amended (the “Act”), for the purpose, among others, of providing a means of financing the costs of residential ownership, development and rehabilitation that will provide decent, safe, and affordable living environments for persons and families of low and very low income (as defined in the Act) and families of moderate income (as described in the Act and determined by the Governing Board of the Department (the “Board”) from time to time);

WHEREAS, 24 CFR Part 982.503, Voucher tenancy, states that a Public Housing Authority (PHA) must adopt a payment standard schedule that establishes voucher payment standard amounts for each Fair Market Rent (FMR) area in the PHA jurisdiction. The PHA must establish payment standard amounts for each “unit size.” Unit size is measured by the number of bedrooms (zero-bedroom, one-bedroom, and so on).

- (1) The payment standard amounts on the PHA schedule are used to calculate the monthly housing assistance payment for a family.
- (2) The PHA voucher payment standard schedule shall establish a single payment standard for each unit size in an FMR area;

WHEREAS, the Department in operating as a PHA in non-participating jurisdictions may establish the payment standard amount for a unit size at any level between 90 percent and 110 percent of the published FMR for that unit size;

WHEREAS, the Department has caused the Payment Standards to be reviewed and updated, establishes its Payment Standards at 100 percent of FMR in the areas referenced in the attached Payment Standards;

WHEREAS, the Department establishes its payment standards at 110 percent of FMR due to updated utility allowance rates that exceed TDHCA former utility allowances in the areas referenced in the attached Payment Standards;

WHEREAS, the Board desires to authorize the Executive Director of the Department to approve payments up to 110 percent of FMR in extenuating circumstances;

WHEREAS, the Board desires to authorize the Executive Director to request approval from the U. S. Department of Housing and Urban Development to approve payments of 110 percent and above of FMR in extenuating circumstances; and

WHEREAS, such Payment Standards meet the guidelines of the Federal Registers, HUD Handbooks, Notices, Transmittals, and the needs of these communities.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS THAT:

Section 1 - Approval and Adoption of the Section 8 Payment Standards for Housing Choice Vouchers. The Governing Board hereby approves and adopts the attached Section 8 Payments Standards for Housing Choice Vouchers for each non-participating jurisdiction in which the Department participates as a PHA. The Payment Standards are attached as Exhibit A.

Section 2 - Authority of Executive Director of the Department to Approve Payments up to 110 Percent FMR. The Governing Board hereby authorizes the Executive Director to approve Section 8 housing voucher payments up to 110 percent FMR in extenuating circumstances.

Section 3 - Effective Date. This Resolution shall be in full force and effect from and upon its adoption. The Department shall initiate the Payment Standards effective immediately.

Section 4 - Open Meetings; Open Records. Written notice of the date, hour and place of the meeting of the Board at which this Resolution was considered and of the subject of this Resolution was furnished to the Secretary of State and posted for at least seven (7) days preceding the convening of such meeting, on a bulletin board in the main office of the Secretary of State located at a place convenient to the public; that such place was readily accessible to the general public at all times from the time of such posting until the convening of such meeting; that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof was discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code; and that written notice of the date, hour and place of the meeting of the Board and of the subject of this Resolution was published in the *Texas Register* at least seven (7) days preceding the convening of such meeting, as required by the Administrative Procedure Act and Texas Register and Administrative Code, Chapters 2001 and 2002, Texas Government Code, respectively.

PASSED AND APPROVED this 14th day of November, 2002.

Chair of the Governing Board

ATTEST:

Secretary to the Board

VOUCHER PAYMENT STANDARDS
Dallas Region

	Bedroom Size				
	0 BR	1 BR	2 BR	3 BR	4 BR
<u>Collin County:</u>					
HUD FMR	326	375	453	607	693
Payment Standard	326	375	453	607	693
% of Payment Standard	110%	110%	110%	110%	110%
<u>Dallas County:</u>					
HUD FMR	326	375	453	607	693
Payment Standard	326	375	453	607	693
% of Payment Standard	110%	110%	110%	110%	110%
<u>Denton County:</u>					
HUD FMR	326	375	453	607	693
Payment Standard	326	375	453	607	693
% of Payment Standard	110%	110%	110%	110%	110%
<u>Ellis County:</u>					
HUD FMR	575	662	850	1176	1391
Payment Standard	575	662	850	1176	1391
% of Payment Standard	100%	100%	100%	100%	100%
<u>Ft. Worth County:</u>					
HUD FMR	337	382	493	638	693
Payment Standard	337	382	493	638	693
% of Payment Standard	110%	110%	110%	110%	110%
<u>Falls County:</u>					
HUD FMR		326	375	453	607
Payment Standard		326	375	453	607
% of Payment Standard		110%	110%	110%	110%
<u>Freestone County:</u>					
HUD FMR		326	375	453	607
Payment Standard		326	375	453	607
% of Payment Standard		110%	110%	110%	110%
<u>Johnson County:</u>					
HUD FMR		525	572	741	1035
Payment Standard		525	572	741	1035
% of Payment Standard		100%	100%	100%	100%

Dallas Region (continued)

	Bedroom Size				
	0 BR	1 BR	2 BR	3 BR	4 BR
<u>Limestone County:</u>					
HUD FMR		296	341	412	552
Payment Standard		296	341	412	552
% of Payment Standard		100%	100%	100%	100%
<u>Mason County:</u>					
HUD FMR		296	341	412	552

HUD FMR	296	341	412	552
Payment Standard	100%	100%	100%	100%
% of Payment Standard				
<u>McLennan County:</u>				
HUD FMR	330	404	533	708
Payment Standard	330	404	533	708
% of Payment Standard	100%	100%	100%	100%
<u>Menard County:</u>				
HUD FMR	296	341	412	552
Payment Standard	296	341	412	552
% of Payment Standard	100%	100%	100%	100%
<u>Navarro County:</u>				
HUD FMR	354	373	447	568
Payment Standard	354	373	447	568
% of Payment Standard	100%	100%	100%	100%
<u>Schleicher County:</u>				
HUD FMR	326	375	453	607
Payment Standard	326	375	453	607
% of Payment Standard	110%	110%	110%	110%

VOUCHER PAYMENT STANDARDS
Houston Region

	Bedroom Size				
	0 BR	1 BR	2 BR	3 BR	4 BR
Austin County:	326	375	453	607	693
HUD FMR	326	375	453	607	693
Payment Standard	110%	110%	110%	110%	100%
Brazoria County:					
HUD FMR	519	578	722	1006	1183
Payment Standard	519	578	722	1006	1183
Payment Standard	100%	100%	100%	100%	100%
Brewers, Fort Bend & Waller Counties:					
HUD FMR	514	578	747	1042	1227
Payment Standard	514	578	747	1042	1227
Payment Standard	100%	100%	100%	100%	100%
Brooks & Wharton Counties:					
HUD FMR	326	375	453	607	693
Payment Standard	326	375	453	607	693
Payment Standard	110%	110%	110%	110%	110%
Brewster County:					
HUD FMR	510	524	656	912	1077
Payment Standard	510	524	656	912	1077
Payment Standard	100%	100%	100%	100%	100%
Brewster County:					
HUD FMR	296	391	436	552	630
Payment Standard	296	391	436	552	630
Payment Standard	100%	100%	100%	100%	100%

VOUCHER PAYMENT STANDARDS
San Antonio Region

	Bedroom Size				
	0 BR	1 BR	2 BR	3 BR	4 BR
<u>Brewster County:</u>					
HUD FMR	326	399	534	740	747
Payment Standard	326	399	534	740	747
% of Payment Standard	110%	110%	110%	110%	110%
<u>Brewster County:</u>					
HUD FMR	326	375	453	607	693
Payment Standard	326	375	453	607	693
% of Payment Standard	110%	110%	110%	110%	110%
<u>Brewster County:</u>					
HUD FMR	414	477	587	816	955
Payment Standard	414	477	587	816	955
% of Payment Standard	110%	110%	110%	110%	110%
<u>Brewster County:</u>					
HUD FMR	565	684	911	1265	1496
Payment Standard	565	684	911	1265	1496
% of Payment Standard	100%	100%	100%	100%	100%
<u>Brewster County:</u>					
HUD FMR	424	489	633	880	1041
Payment Standard	424	489	633	880	1041
% of Payment Standard	100%	100%	100%	100%	100%
<u>Brewster County:</u>					
HUD FMR	296	393	450	561	631
Payment Standard	296	393	450	561	631
% of Payment Standard	100%	100%	100%	100%	100%
<u>Jim Wells County:</u>					
HUD FMR		296	341	412	552
Payment Standard		296	341	412	552
% of Payment Standard		100%	100%	100%	100%
<u>Kerr County:</u>					
HUD FMR		326	421	525	732
Payment Standard		326	421	525	732
% of Payment Standard		110%	110%	110%	110%
<u>Lee County:</u>					
HUD FMR		369	415	464	648
Payment Standard		369	415	464	648
% of Payment Standard		110%	110%	110%	110%

San Antonio Region (continued)

	Bedroom Size				
	0 BR	1 BR	2 BR	3 BR	4 BR
<u>Live Oak County:</u>					
HUD FMR		326	375	453	607
Payment Standard		326	375	453	607
% of Payment Standard		110%	110%	110%	110%
<u>Llano County:</u>					
HUD FMR		296	381	506	634
Payment Standard		296	381	506	634
% of Payment Standard		100%	100%	100%	100%

% of Payment Standard				
<u>Medina County:</u>				
<i>HUD FMR</i>	326	375	453	607
Payment Standard	326	375	453	607
% of Payment Standard	110%	110%	110%	110%
<u>Nueces County:</u>				
<i>HUD FMR</i>	379	465	593	808
Payment Standard	379	465	593	808
% of Payment Standard	100%	100%	100%	100%

MEMORANDUM

TO: TDHCA Board Members
CC: Ruth Cedillo, Deputy Executive Director
FROM: Tom Gouris, Director of Credit Underwriting
THROUGH: Edwina Carrington, Executive Director
SUBJECT: Public Comment on the 2003 Draft Underwriting, Market Analysis, Appraisal, and Environmental Site Assessment Rules and Guidelines and Department Response
DATE: November 7, 2002

Attached you will find the Draft 2003 Underwriting, Market Analysis, Appraisal, and Environmental Site Assessment Rules and Guidelines with staff's suggestion for changes in response to public comment. On September 27, 2002, the Draft Rules and Guidelines were published in the *Texas Register*. A public comment period commenced on September 27, 2002, and ended on October 25, 2002. In addition to publishing the document in the *Texas Register*, a copy was published on the Department's web site and made available to the public upon request. The Department held public hearings in Clint, New Braunfels, Weslaco, Austin, Fort Worth, Wichita Falls, Pampa, Mount Pleasant, San Angelo, and Liberty. A hearing scheduled for Galveston was cancelled due to inclement weather. In addition to comments received at the public hearings, the Department received written comments.

This memo divides the public comment received into three types: Items that Relate Directly to the Draft Rules and Guidelines, Requests for Clarification, and Minor Technical Changes for Consistency. Within the three parts, the comments are identified by the section in question followed by the specific comment and staff's response. The scope of public comment concerning the Underwriting, Market Analysis, Appraisal, and Environmental Site Assessment Rules and Guidelines pertains to the following sections:

SUMMARY OF COMMENTS RECEIVED UPON PUBLICATION OF THE PROPOSED RULES IN THE *TEXAS REGISTER* AND COMMENTS PROVIDED AT PUBLIC HEARINGS HELD BY THE DEPARTMENT ON ITEMS THAT RELATE DIRECTLY TO THE UNDERWRITING, MARKET ANALYSIS, APPRAISAL, AND ENVIRONMENTAL SITE ASSESSMENT RULES AND GUIDELINES

§1.31 General Provisions.

Comment: The Department may want to clarify how and when the Guidelines can be changed and what public input process will be used prior to any changes.

Department Response: The public hearing process already prescribes how this administrative code is changed. Staff does not recommend a change.

§1.31(b)(6) Definition of Debt Coverage Ratio

Comment: Current language states, "A measure of the number of times loan principal and interest are covered by net after tax income." §1.32(d) refers to the Debt Coverage Ratio as being Net Operating Income divided by debt service. This is a more accurate definition of Debt Coverage Ratio and should be used in this §1.31(b)(6). The following language could be used:

"A measure of the number of times the required payments of loan principal and interest are covered by Net Operating Income."

Department Response: Staff agrees the change should be made to maintain consistency and the proposed language is recommended.

(6) DCR--Debt Coverage Ratio. Sometimes referred to as the "Debt Coverage" or "Debt Service Coverage." A measure of the number of times the required payments of loan principal and interest are covered by Net Operating Income.~~A measure of the number of times loan principal and interest are covered by net after tax income.~~

§1.31(b)(11) Definition of Local Amenities

Comment: Should the definition reference the location of the amenities with respect to the Development? In other words, should it say something like: "Amenities located near and available to the tenants of a proposed Development, including but not limited to police and fire protection, transportation, healthcare, retail, grocers, educational institutions, employment centers, parks, public libraries, and entertainment centers."

Department Response: Staff agrees the change should be made and the proposed language is recommended.

(11) Local Amenities-- Amenities located near and available to the tenants of a proposed Development, including but not limited to police and fire protection, transportation, healthcare, retail, grocers, educational institutions, employment centers, parks, public libraries, and entertainment centers.~~Include, but are not limited to police and fire protection, transportation, healthcare, retail, grocers, educational institutions, employment centers, parks, public libraries, entertainment centers, etc.~~

§1.31(b)(16) Definition of Net Operating Income.

Comment: The calculation of NOI for bond-financed Developments should be calculated using the same methodology as 9% LIHTC Developments. Applicants should be required to identify and support which fees are "below-the-line", fees not included by the principal lender or syndicator in their calculation of NOI, in order to exclude the fee from the NOI calculation.

Department Response: Staff agrees that the same methodology should be used in both bond-financed and 9% LIHTC developments. The discussion of operating expenses in §1.32(d)(5)(A-J) is the Department's attempt to standardize the assumptions regarding fees and expenses. No change is recommended.

§1.31(b)(23) Definition of Unstabilized Development

Comment: Current language states, "A Development that has not maintained a 90% occupancy level for at least 12 consecutive months." Instead of using a 90% standard, which may or may not indicate the actual financial stability of the Development, should a reference to the defined term "Sustaining Occupancy" be used? This definition could be revised to read: "A Development that has not maintained Sustaining Occupancy for at least 12 consecutive months."

Department Response: Staff believes the proposed revision is too subjective and the 90% standard for 12 months is a more objective way to measure stabilized occupancy for all developments. No change is recommended.

§1.31(b)(24) Definition of Utility Allowances.

Comment: The definition of utility costs needs to be as in prior years—using the PHA that most closely represents the utility provider's charges. Harris County is twice the City of Houston cost which most closely represent Reliant Energy's data. In order to compete with project funds to deep skew units, one could not develop in Harris County, outside Houston's city limits under the suggested language. Also, what happened to using utility provider data for operations—seems to be prohibited by QAP which may violate federal law. In the event of overlapping jurisdiction

between local housing authorities, the utility allowance for the building must be based on where the Development property is located according to the Development's legal description unless (i) (in the case of county properties) if the property is located within five miles of city limits, then the city allowances may be used or (ii) if the service provider has submitted data showing costs, then one must use the service provider's data. [There is a HUD requirement as to (ii).]

Department Response: While staff believes the draft definition is consistent with the comment provided and the comment provided is significantly addressing the QAP, the definition in this document should be consistent with that which is proposed in the QAP. Therefore, staff recommends the following change:

(24) Utility Allowance(s)—The estimate of tenant-paid utilities, based either on the most current HUD Form 52667, "Section 8, Existing Housing Allowance for Tenant-Furnished Utilities and Other Services", provided by the appropriate local Public Housing Authority ~~with most direct jurisdiction over the majority of the buildings existing consistent with the current QAP~~ or a documented estimate from the utility provider proposed in the Application. Documentation from the local utility provider to support an alternative calculation can be used to justify alternative Utility Allowance conclusions but must be specific to the subject Development and consistent with the building plans provided.

§1.32(a) General Provisions.

Comment: Current language states, "The Department, through the division responsible for underwriting, produces or causes to be produced a Credit Underwriting Analysis Report (the "Report") for every multifamily Development recommended for funding through the Department." First, remove the word "multifamily" because these Guidelines are supposed to apply to single family and multifamily projects. Second, does the underwriting division really produce a report for every Development recommended for funding? For instance, in the tax credit program, Developments are recommended to be underwritten but are not necessarily recommended to receive funding.

Department Response: Due to a staff error, the version of the 2003 Draft Underwriting, Market Analysis, Appraisal, and Environmental Site Assessment Rules and Guidelines included in the 9/12/2002 Board Book included the word "multifamily" in inappropriate places. The version of the 2003 Draft Underwriting, Market Analysis, Appraisal, and Environmental Site Assessment Rules and Guidelines published in the *Texas Register* and on the Department's website subsequent to the 9/12/2002 board meeting does not include the inappropriate uses of the word "multifamily."

§1.32(b)(1)(and others) Use of the word "Principal"

Comment: Current language states, "principals of the Applicant". The word "principals" is used from time to time throughout the Guidelines, but it is not defined. Given the complex organizational structure of many of the Applicants, the term "principal", without definition, could be interpreted in a variety of ways. The Department has an interest in knowing who is going to own and operate a Development. This includes not only the ownership entity itself but all other entities and individuals on the organizational chart that own or have the ability to control the ownership entity. If the Department is going to require, on its Uniform Application, that each Applicant submit an organizational chart for the ownership entity, then the "principals" might be defined as every entity or individual on the organizational chart who has the ability to control the Development owner, either directly or indirectly. This should exclude, however, intervening entities in multi-layer ownership structures. This gets the Department to its ultimate goal while reducing the paperwork burden for the Applicant. Please review the use of the word "principals" throughout the Guidelines, considering who the Department wants to identify, and create some sort of appropriate definition for this term so that we do not have to address interpretive issues of who is a "principal".

Department Response: Staff agrees that a definition of Principal would be a good idea. However, staff does not recommend adding a definition of the word “Principal” to this subchapter. As §1.32(b) states, “Many of the terms used in this subchapter are defined in 10TAC §§49 and 50 of this title (the Department’s Low Income Housing Tax Credit Program Qualified Allocation Plan and Rules, known as the “QAP”).” Staff understands that the proposed 2003 QAP includes a definition of the word “Principal.” Therefore, the definition included in the QAP would apply to this subchapter.

§1.32(d)(1)(A) Market Rents.

Comment: Current language states, “. . . and determines if the adjustments and conclusions made are reasoned and well documented.” We believe this language should be removed, as it gives the Department too much discretion. The Department establishes a list of Market Analysts they deem to be qualified. The Department requires the submission of the Market Study, and the Applicant pays a significant fee to obtain it. The Department should rely on the Market Analyst's conclusions. If the Department has serious concerns about a Market Analyst's work, then it should remove the Market Analyst from its approved list. Otherwise, the Development Owner should be entitled to rely on the Market Study it pays for, and the Department should accept the Market Analyst's conclusions. This helps the Department to avoid criticism for exercising discretion and creates a more level playing field.

Department Response: Removal of the statement in question is not recommended. Although the Department maintains a list of Approved Market Analysts, §1.33(c)(2) clearly indicates that review of submitted market analyses is required in order to maintain the List of Approved Market Analysts. In addition, it is believed that even Approved Market Analysts are capable of making mistakes. The Department must have the ability to have discretion in this regard to avoid basing a funding recommendation on flawed analysis.

§1.32(d)(4) Effective Gross Income and (5) Expenses.

Comment: Current language states, “. . . the Underwriter will maintain and use its independent calculation . . . regardless of the characterization of the Applicant's figure.” If the Applicant's calculation is acceptable, then the Applicant's figure should be used in all circumstances.

Department Response: While the suggestion might on the surface make intuitive sense, following the suggestion will distort the Underwriter’s analysis and cause it to appear to be inconsistent when comparing similarly-sized transactions in the same general location in the same year. By maintaining the Underwriter’s independently derived figure for comparison, other competing transactions can more easily see that they have been treated in a consistent manner. Staff does not recommend a change.

§1.32(d)(5) Expenses.

Comment: In many instances, it is not appropriate to measure operating costs on a per square foot basis. Costs may be more dependent on the number of units than the number of square feet in those units.

Department Response: In many cases the opposite is also true; that is why both methods, as identified in the Rules and Guidelines, are used. Staff does not recommend a change.

§1.32(d)(5)(A)-(H) Operating Feasibility.

Comment: Because of the diversity in the kinds of Developments and the locations of Developments, we do not believe the Department should analyze operating expenses on a line item basis with a tolerance level for each. Rather, an aggregate expense figure should be used and analyzed for tolerance.

Department Response: Staff agrees that there is diversity in the kinds of Developments and the locations of Developments; that is why line by line adjustment is the only way to fairly evaluate

expenses. For example, the utility cost for a Development with a central boiler is very different from one without, yet if a Development with a central boiler is also tax-exempt, its operating expenses may be lower overall compared to a similar Development without a central boiler and no tax exemption. This difference could not be evaluated without taking into account the individual line item expenses. Staff does not recommend a change.

§1.32(d)(5)(E) Utilities Expense (Gas & Electric).

Comment: Third sentence apparently refers to common area expenses but is not specific.

Department Response: Staff agrees and, since no specific language was suggested by the public, staff recommends inserting the phrase "...for utility expenses attributable to common areas."

(E) Utilities Expense (Gas & Electric). Utilities Expense includes all gas and electric energy expenses paid by the owner. It includes any pass-through energy expense that is reflected in the unit rents. Historically, the lower of an estimate based on 25.5% of the PHA local Utility Allowance or the TDHCA Database or local IREM averages have been used as the most significant data point [for utility expenses attributable to common areas](#). The higher amount may be used, however, if the current typical higher efficiency standard utility equipment is not projected to be included in the Development upon completion or if the higher estimate is more consistent with the Applicant's projected estimate. Also a lower or higher percentage of the PHA allowance may be used, depending on the amount of common area, and adjustments will be made for utilities typically paid by tenants that in the subject are owner-paid as determined by the Underwriter. The underwriting tolerance level for this line item is 30%.

§1.32(d)(5)(G) Insurance Expense.

Comment: Insurance at \$0.16 seems too low.

Department Response: Staff agrees that \$0.16 is low in the current market for most Developments; however some Developers contrive to provide documentation of blanket coverage with rates at or below this level. This figure was chosen as a minimum level at which an Applicant's estimate may be considered reasonable without further documentation. Since no alternative recommendation was made, staff does not recommend a change.

§1.32(d)(5)(H) Property Tax.

Comment: Current language states, "For CHDO owned or controlled properties, this documentation includes, at a minimum, evidence of the CHDO designation from the State or local participating jurisdiction and a letter from the local taxing authority recognizing that the Applicant is or will be considered eligible for the property exemption." In the case of *American Agape Foundation, Inc. v. Travis Central Appraisal District*, the court said that an Applicant for an ad valorem tax exemption under the CHDO exemption is not required to show its certificate of CHDO designation to be eligible for the exemption. The statute (§11.182 of the Texas Tax Code) says that the organization owning the property and applying for the exemption must be organized as a CHDO; it does not say that the organization must be certified as a CHDO. Thus, where an Applicant for a tax exemption met all of the requirements to be a CHDO (including an affordable housing purpose, community representation on the board of directors, etc.) but did not have a CHDO certificate, the Applicant and its property were still eligible for the tax exemption because the Applicant was organized as a CHDO. Given this case law, the Department should change its documentation requirements with respect to the CHDO ad valorem tax exemption. §11.43 of the Texas Tax Code permits a CHDO that intends to acquire control of a property to request a pre-determination of its eligibility for the ad valorem tax exemption. This pre-determination letter from the appraisal district should be sufficient for the Department's underwriting purposes. The taxing authorities themselves do not make determinations as to exemptions; that function is within the realm of the appraisal district. Therefore, we recommend the language of §1.32(d)(5)(H) be revised to read: "For CHDO owned or controlled properties, this

documentation includes, at a minimum, a letter from the local appraisal district recognizing that the Applicant is or will be considered eligible for the ad valorem tax exemption."

Department Response: Staff agrees and recommends the suggested language.

(H) Property Tax. Property Tax includes all real and personal property taxes but not payroll taxes. The TDHCA Database is used to interpret a per unit assessed value average for similar properties which is applied to the actual current tax rate. The per unit assessed value is most often contained within a range of \$15,000 to \$35,000 but may be higher or lower based upon documentation from the local tax assessor. Location, size of the units, and comparable assessed values also play a major role in evaluating this line item expense. Property tax exemptions or proposed payment in lieu of taxes (PILOT) must be documented as being reasonably achievable if they are to be considered by the Underwriter. For Community Housing Development Organization ("CHDO") owned or controlled properties, [this documentation includes, at a minimum, a letter from the local appraisal district recognizing that the Applicant is or will be considered eligible for the ad valorem tax exemption.](#)~~this documentation includes, at a minimum, evidence of the CHDO designation from the State or local participating jurisdiction and a letter from the local taxing authority recognizing that the Applicant is or will be considered eligible for the property exemption.~~ The underwriting tolerance level for this line item is 10%.

§1.32(d)(5)(I) Reserves.

Comment: It is highly recommended that reserves for replacements, with the possible exception of new construction for elderly tenants, be set at minimum of \$250 per unit. Most other states require at least \$250 per unit for replacement reserves and increasing the minimum reserve level is proactive preservation of affordable housing.

Department Response: Staff supports and proposed this increase in the roundtable discussions held this summer, but after considerable discussion, a consensus was established to maintain the current NCHA \$200 per unit standard which is viewed as an adequate reserve amount.

§1.32(d)(5)(J)(i) Supportive Services Expense.

Comment: If any supportive service expenses are subject to available cash flow or otherwise "soft," they should not be included in expenses and Debt Coverage Ratio.

Department Response: We also received recommendations during the summer ad hoc sessions to continue to differentiate the way this issue is addressed for 9% LIHTC and 4% LIHTC/bond-financed developments. For 9% LIHTC Developments, the fee is shown above line as an operating expense. For 4% LIHTC/bond-financed Developments the fee has been shown below line as a potentially "soft" cost. Despite this ad hoc recommendation, staff recommends in the draft rules to treat both types of transactions in the same manner. Where supportive services are required due to a request for points or due to QAP requirements for bond transactions, there is no provision that allows them only to be provided when cash flow exists, thus they should not be treated as "soft." Staff recommends no change.

§1.32(d)(6)(A) Interest Rate.

Comment: Current language states, "The maximum rate that will be allowed . . ." We all agree that predicting the permanent loan interest rate that will be in effect once a Development is stabilized is difficult. But allowing the Department to establish a cap on the permanent loan interest rate is problematic as well. If an artificially low rate is dictated, projects will wind up with fewer tax credits than they need and the numbers will not work. This section indicates that the Department has historically used a certain average figure for the interest rate cap, but it does not say over what period the average is calculated or that this is definitely the figure that will be used.

Department Response: The purpose of the cap is to attempt to apply a fair and consistent maximum rate for all transactions by surveying the market at the time of application. Prescribing an absolute method of calculating this maximum will give rise to many transactions being set to

this artificial rate rather than the actual market rate and thereby reduce the validity of the underwriting. The last sentence of §1.32(d)(6)(A) states, "Historically this maximum acceptable rate has been at or below the average rate for 30-year US Treasury Bonds plus 400 basis points." Staff does not recommend a change.

§1.32(d)(6)(C) Acceptable Debt Coverage Ratio Range.

Comment: Current language states, "The acceptable DCR range for all priority or foreclosable lien financing plus the Department's proposed financing falls between a minimum of 1.10 to a maximum of 1.30." The language "priority or foreclosable lien financing" is ambiguous. The debt service coverage ratio should measure "hard" debt repayment obligations and not "soft" or cash flow debt. Yet, a cash flow debt can still have a foreclosable lien. Therefore, the language as written does not clearly state the Department's intention. Also, it should be clear that the debt service coverage ratio measures permanent financing and not construction financing.

Department Response: Staff believes the "hard" and "soft" language suggested is equally ambiguous. Staff recommends rewriting the sentence as follows:

(C) Acceptable Debt Coverage Ratio Range. The initial acceptable DCR range for all debt associated with permanent priority liens that are foreclosable as a result of nonpayment of a regularly scheduled amount plus the Department's proposed financing falls between a minimum of 1.10 to a maximum of 1.30. In rare instances, such as for HOPE VI and USDA Rural Development transactions, the minimum DCR may be less than 1.10 based upon documentation of acceptance of such an acceptable DCR from the lender. If the DCR is less than the minimum, a reduction in the debt service amount is recommended based upon the rates and terms in the permanent loan commitment letter as long as they are within the ranges in subparagraphs (A) and (B) of this paragraph. If the DCR is greater than the maximum, an increase in the debt service amount is recommended based upon the rates and terms in the permanent loan commitment letter as long as they are within the ranges in subparagraphs (A) and (B) of this paragraph, and the funding gap is reviewed to determine the continued need for Department financing. When the funding gap is reduced no adjustments are made to the level of Department financing unless there is an excess of financing, after the need for deferral of any developer fee is eliminated. If the increase in debt capacity provides excess sources of funds, the Underwriter adjusts any Department grant funds to a loan, if possible, and/or adjusts the interest rate of any Department loans upward until the DCR does not exceed the maximum or up to the prevailing current market rate for similar conventional funding, whichever occurs first. Where no Department grant or loan exists or the full market interest rate for the Department's loan has been accomplished, the Underwriter increases the conventional debt amount until the DCR is reduced to the maximum allowable. Any adjustments in debt service will become a condition of the Report, however, future changes in income, expenses, rates, and terms could allow additional adjustments to the final debt amount to be acceptable. In a Tax Credit transaction, an excessive DCR could negatively affect the amount of recommended tax credit, if based upon the Gap Method, more funds are available than are necessary after all deferral of developer fee is reduced to zero.

§1.32(d)(6) Net Operating Income and Debt Service.

Comment: Current language states, "NOI is the difference between the EGI and total operating expenses." This language is different from the language defining NOI in §1.31(b)(16). If the definition in §1.31(b)(16) is correct, then this sentence should be eliminated to avoid confusion. In addition, current language states, "If the NOI figure provided by the Applicant is within five percent of the NOI figure calculated by the Underwriter, the Applicant's figure is characterized as acceptable or reasonable in the Report, however, for purposes of calculating the DCR the Underwriter will maintain and use its independent calculation of NOI regardless of the characterization of the Applicant's figure. Only if the Applicant's EGI, total expenses, and NOI are each within five percent of the Underwriter's estimates and characterized as acceptable or reasonable in the Report will the Applicant's estimate of NOI be used to determine the acceptable debt service amount." The first sentence implies that the Applicant's NOI figure cannot be used for the calculation of NOI under any circumstance. Then the second sentence states that the

Applicant's NOI figure can be used for the calculation of NOI under special conditions. The structure of this paragraph could be more clearly set forth as follows: "The Underwriter will review the Development's proposed NOI and DCR and determine an acceptable debt level for the Development. If the Applicant's EGI, total expenses, and NOI are each within five percent of the Underwriter's estimates, then the Applicant's estimate of NOI will be used to determine the acceptable debt level for the Development. Otherwise, the Underwriter's estimate of NOI will be used to determine the acceptable debt level for the Development. The NOI figure provided by the Applicant must be within five percent of the NOI figure calculated by the Underwriter to be considered acceptable or reasonable in the Report."

Department Response: Staff agrees that the first sentence is inconsistent with the definition of NOI and, therefore, it has been deleted from §1.32(d)(6). Staff also agrees that the suggested language for the remainder of §1.32(d)(6) provides for a clearer statement. However, the final sentence of the suggested language is redundant. It is recommended that the current language is replaced with the suggested language, save the final sentence.

(6) Net Operating Income and Debt Service. ~~NOI is the difference between the EGI and total operating expenses.—The Underwriter will review the Development's proposed NOI and DCR and determine an acceptable debt level for the Development. If the Applicant's EGI, total expenses, and NOI are each within five percent of the Underwriter's estimates, then the Applicant's estimate of NOI will be used to determine the acceptable debt level for the Development. Otherwise, the Underwriter's estimate of NOI will be used to determine the acceptable debt level for the Development. If the NOI figure provided by the Applicant is within five percent of the NOI figure calculated by the Underwriter, the Applicant's figure is characterized as acceptable or reasonable in the Report, however, for purposes of calculating the DCR the Underwriter will maintain and use its independent calculation of NOI regardless of the characterization of the Applicant's figure. Only if the Applicant's EGI, total expenses, and NOI are each within five percent of the Underwriter's estimates and characterized as acceptable or reasonable in the Report will the Applicant's estimate of NOI be used to determine the acceptable debt service amount. In all other cases the Underwriter's estimates are used.~~ In addition to NOI, the interest rate, term, and Debt Coverage Ratio range affect the determination of the acceptable debt service amount.

§1.32(d)(7) Long Term Feasibility (or §1.32(e)(7) Developer Fee Limit)

Comment: Much comment was received on limiting to 50% the allowable amount of deferred developer fees. The amount of developer fee allowed to be deferred should be limited to 50% as in 2002 or at worst 60% and this should be added back to the QAP. An interest rate, suggested as the long term AFR, must be considered when calculating the ability of a Development to repay deferred developer fees within 15 years. Otherwise, part of the developer fee may be disallowed, causing a loss of eligible basis. We do not know of an attorney who will opine to developer fee as eligible basis unless paid back within 13 years. All investors look to the developer fee for cost overruns or as interest rate increase protection.

Department Response: Staff believes the 50% or 60% deferred developer fee limit can be unnecessarily burdensome to large developments in major metropolitan areas where the expense to income ratio may be low allowing for more potential future cash flow. In such cases, 100% of the developer fee could be deferred and be projected to be repaid in less than 10 years. Conversely, a small development where the expense to income ratio is high might not be able to repay a 30% deferral of developer fee within 15 years. Staff believes the evaluation of the repayment capacity of a Development is a better measurement of infeasibility. The 15-year, zero percent interest limits were established to provide maximum flexibility and when staff proposed stiffer limits of ten years at AFR during the summer discussion groups, they were widely discouraged. Staff feels that several transactions, which passed the 50% deferred developer fee test in 2002, would have failed a 15-year at AFR test. Fundamentally, the Department's objective should not be to fail the potentially marginal transaction at this stage, but rather to fail the extreme transaction. Staff recommends no change.

§1.32(e)(1)(B) Identity of Interest Acquisitions.

Comment: Much public comment was submitted opposing the Department’s approach to acquisition transactions involving an identity of interest. It was suggested that current policy may be well-intentioned, but establishes a tremendous disincentive for property owners to rehabilitate their projects in a manner that make them more serviceable for tenants in the long term. The current method is also viewed by some to be discriminatory. The Internal Revenue Code, through its related party rules, already establishes a significant restriction on the amount of profit that a property owner can achieve in an acquisition transaction. These federal rules should be sufficient for the Department. The Department should rely on a third party appraisal in making its calculations and should not open itself up to the criticism that can come with discretionary review. Since an appraisal is required for related party transactions, then that should be the only item required and (i), (iii), and (iv) should be eliminated. As currently drafted, this section allows the Department to look at a variety of factors, some of which are entirely subjective, and to establish its own acquisition costs figure. It can completely ignore the calculations of a third party appraiser who has been designated as a qualified professional by the Department. Why should the Department qualify the appraisers if it is not going to rely on them? Identity of interest transfers should be at reasonable market value, verified by an appraisal, either from a TDHCA approved list of appraisers or ordered by TDHCA.

Department Response: This issue received the most comment and staff’s position was clearly opposed by the participants in the ad hoc meetings held this summer to discuss these rules. As opposed to providing a disincentive for rehabilitation, this rule was drafted by staff to encourage funds to stay in the Development and to maximize their use for rehabilitation. The rule is intended to prevent existing owners from having the benefits of the seller and of the purchaser in the same transaction and extracting equity from a development in need of a cash infusion to maintain its affordability. The State of Texas, through its legislation, QAP, and rule making process, has established and is required to establish rules for the program that in many instances are more restrictive than the minimum Internal Revenue Code requirements. The Department does rely upon the third party appraisals that are provided through the Applicant. The appraisal provides a maximum acceptable transfer value amount. The Department hopes to avoid future potential criticism from the public for over-subsidizing an affordable Development, which could lead to a lack of future funding support from the public for all of the Department’s programs. The factors that should additionally be taken into account to validate funding needs of the redevelopment have been significantly clarified in the draft rules and were written to provide standards for considerably more objectivity than may have been perceived to exist in the past. An example of the effect of this rule is as follows:

An Applicant claims site acquisition costs of \$2 million and submits an appraisal indicating a market value of \$2 million. However, the Applicant originally acquired the property for only \$1.2 million. During the period of control, the Applicant has expended an additional \$300 thousand to make site improvements and \$100 thousand in interest expense, and has provided documentation verifying these costs. In addition, it is anticipated they will pay \$100 thousand in taxes on the profit from the transfer. The transfer value utilized in the underwriting analysis would be the

Original Acquisition Cost	\$1.2 million
+ Holding Costs	0.5 million
Transfer Value	\$1.7 million

Items that may be considered as holding costs include property taxes paid on vacant land, capital improvements on the improved property, interest expense and anticipated exit taxes. The example reflects an Applicant’s request for \$300 thousand in profit that would not be limited by the 15% developer profit limit. If, however, the final development budget indicates more than

\$300 thousand in deferred developer fees, there would be no effect on the funding source recommendation amounts as the “excess” would be funded out of cashflow from the operation of the Development and the Applicant is already entitled to receive Development cashflow. Staff does not recommend a change.

§1.32(e)(3) Site Work Costs.

Comment: We believe that analyzing a distinct category for site work costs is not necessary. The underwriting process already establishes a maximum total construction cost per square foot, and the site work is part of this figure. Concern about eligible basis under the TAMS has been addressed. In the alternative, if the Department believes that site work costs must be evaluated separately, then the \$7,500 threshold number should be increased significantly because it is not realistic. A maximum guideline of \$9,200 to \$10,000 per unit is suggested. In addition, historical data should be accepted as substantiation for costs in excess of the maximum guideline in lieu of an engineer’s cost certification in order to save developers money.

Department Response: While other direct construction costs of “sticks and bricks” can be predicted across transactions using costing techniques, sitework costs are Development specific and can and do vary widely. Moreover sitework cost differences can make or break a Development and should be thoroughly explored, especially when they are believed to be higher than typical. The draft rule and this rule in prior years have intended to encourage an Applicant who anticipates a higher than typical sitework cost to more thoroughly explore this significant variable prior to application. The Department increased this threshold from \$6,500 per unit last year and \$5,500 per unit the previous year. The actual average budgeted amount for 2002 applications underwritten was \$5,897 per unit for new construction Developments. Therefore, the 15% increase in the draft rule to \$7,500 should provide ample cushion for a typical Development. Staff does not recommend a change.

§1.32(e)(4)(A) New Construction.

Comment: Direct Construction Cost use of Marshall and Swift Residential Cost Handbook has proven to be an inaccurate technique for estimating cost around the state of Texas. The Marshall and Swift Residential Cost Handbook generally reflects the cost of construction in smaller communities as less than that in larger cities. However, cost associated with Developments contemplated in the LIHTC applications are of a larger scale than those in the Handbook and will require much of the labor and material to be imported to areas outside the major metropolitan areas of the state. As a result, the use of the Marshall and Swift Residential Cost Handbook places an unfair disadvantage on Developments in rural communities that are not in close proximity to a major city. Instead use the Marshall and Swift Cost Guide (Brown Book) to estimate cost in major cities of Texas and add cost factor for each 100 miles from the central business district. (ie: 1-100 = 0%; 100-200 = 5%; 201-300 = 10%; 301-400 = 15%). An alternative may be to use existing LIHTC production cost, both 4% and 9%, by region, taken from final cost certifications of prior year’s allocations indexed accordingly.

Department Response: While no cost estimating technique is going to be capable of perfectly predicting the final actual costs of a development, the Marshall and Swift methods employed by the Department have historically provided reasonably fair and accurate cost estimates. The accuracy of the Department’s methodology is most significantly impacted by the timing of the Development as it predicts costs as if they have just occurred rather than to occur in nine to 18 months in the future. Both the Marshall Valuation Services book (Brown Book) and the Residential Cost Handbook (Black Book) are employed by the Department and both emphasize the use of local multipliers which tend to be lower for the smaller communities. This is not always the case as Austin and San Antonio are currently reflecting multipliers that are less than those in Longview, Beaumont and Abilene according to both books. The Department generally emphasizes the use of the Black Book because it provides for a slightly more detailed, yet simple

and consistent, approach specifically tailored to housing development, while the Brown Book covers more generally all types of commercial development. While it is a long term goal of the underwriting division to more effectively utilize the final cost certification information available in identifying additional trends and anomalies to consider in the Marshall and Swift-based methodology, there is insufficient volume of cost certified transactions to base the entire costing methodology exclusively on recent cost certifications. The use of a distance adjuster as proposed would require significantly more detail as a proposal in regards to which major cities would be used for what areas and then may still be considered more arbitrary and artificial than the current Marshall and Swift methodologies. No change is recommended.

§1.32(e)(4)(A) New Construction.

Comment: The direct construction cost of providing gas utilities is higher than the cost for providing only electric. This difference in costs should be considered.

Department Response: This difference is difficult to measure except on a case-by-case basis, but would be accepted as established through third party documentation provided by the Applicant indicating the unique local factors that affect gas and electric utility installation and access. Without specific knowledge of extraordinary local differences, the general differences between the cost of gas versus electric amount to less than 1% of the total development budget and, therefore, are well within the Department's 5% tolerance level. No change is recommended.

§1.32(e)(9) Reserves.

Comment: It is highly recommended that TDHCA underwrite Development reserves at a minimum of three months of stabilized operating expenses including replacement reserves and management fees. Furthermore, TDHCA should allow Applicants to submit an amount of Development reserves in excess of three months worth so long as the Applicant submits an affidavit that there will be no provisions for the release of those reserves to the Applicant, Developer or its affiliates during the compliance period except to meet valid operating deficits or debt service payments as determined by the lender or syndicator, as applicable. However, another comment indicated operating reserves should not be required at the time of stabilization.

Department Response: Staff agrees with the first comments and recommends the following changes:

(9) Reserves. The Department will utilize the terms proposed by the syndicator or lender as described in the commitment letter(s) or the amount described in the Applicant's projected [cost schedule](#) if it is within the range of [two-three](#) to six months of stabilized operating expenses less management fees plus debt service.

§1.32(f) Developer Capacity.

Comment: TDHCA should consider obtaining the right for an underwriter to contact in writing only, any contractor, syndicator or lender that has previously worked with the Applicant, with a request for written response to determine if a material event of default currently exists in any construction contract, loan agreement or partnership agreement. Such responses should be noted or attached to the credit underwriting report.

Department Response: By virtue of the Applicant signing the Department's Authorization to Release Credit Information form, staff believes it currently has the right to make such inquiry on an as-needed basis. Due to time constraints in the underwriting process and the significant delays and limited value a routine request from every principal and every lender and syndicator is not made. The Applicant who has had a significantly bad performance record will have difficulty in obtaining initial and final commitments and will likely be exposed through the previous participation compliance process. No change is recommended.

§1.32(f)(1) Previous Experience.

Comment: Current language indicates, "The Underwriter will characterize the Development as "high risk" if the Developer has no previous experience in completing construction and reaching stabilized occupancy in a previous Development." Should the defined term "Sustaining Occupancy" be used instead for clarity?

Department Response: Staff agrees that the use of the defined term "Sustaining Occupancy" in place of "stabilized occupancy" is acceptable and the change is recommended.

(1) Previous Experience. The Underwriter will characterize the Development as "high risk" if the Developer has no previous experience in completing construction and reaching ~~stabilized~~ Sustaining Occupancy in a previous Development.

§1.32(f)(3)(B) Financial Statements of Principals.

Comment: The current underwriting guidelines indicate if a Development is financially feasible. However, there are sections within the underwriting guidelines that characterize a Development as 'high risk'. To expand on this, it is suggested that TDHCA establish ranges of risk criteria for certain aspects of each Development so that an overall feasibility risk can be presented. The risk levels assigned to a particular Development aspect could simply be "high risk" or "low risk". Some suggested aspects of Development include Debt Coverage Ratio on mandatory debt service, percentage of deferred developer fee, developer capacity, and market demand levels. For example, Developments with a Debt Coverage Ratio of less than 1.15 would receive a "high risk" indication on that Development aspect. The same Development could receive a "low risk" indication for having less than 10% of the Development fee projected to be deferred. Doing this should help provide the tax credit evaluation committee and staff with an overall picture of the risk of a Development in a summary format.

Department Response: Staff agrees and as part of the underwriting report and the standard operating procedures employed by the Department, various additional high risk indicators are indicated in the section of the report labeled "Summary of Salient Risks and Issues." However, there are numerous standard operating procedures that have not been re-documented in the draft rules since they apply to how the Department summarizes applications and monitors transactions and do not directly affect the current allocation process.

§1.32(g)(1) Floodplains.

Comment: Local engineering studies, if available, may be a better option than submission of FEMA floodplain maps. Floodplain requirements should be: buildings at least one foot above floodplain and drives and parking lots no lower than six inches below floodplain, subject to local regulations, if more restrictive.

Department Response: Staff believes that funding in floodplains is an issue that should be re-evaluated in the coming year. In the meantime, staff proposes the following change:

(1) Floodplains. The Underwriter evaluates the site plan ~~and~~ floodplain map, local engineering studies provided through the Applicant, and other information provided to determine if any of the buildings, drives, or parking areas reside within the 100-year floodplain. If such a determination is made by the Underwriter and the buildings' finished ground floor are not clearly engineered to be at least one foot above the floodplain and all drives and parking lots are not clearly engineered to be not lower than six inches below the floodplain, the Report will include a condition that the Applicant must pursue and receive a Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR-F) or require the Applicant to identify the cost of flood insurance for the buildings and for the tenants' contents for buildings within the 100-year floodplain.

§1.32(g)(2) Inclusive Capture Rate.

Comment: It is not realistic to assume a capture rate in a community that has had no new Development in a number of years. Generally there is a pent-up demand for housing in smaller communities or in those communities that would not be able to support new construction cost without the LIHTC equity. These types of communities should be exempt from capture rate as long as the economic climate is strong and the need for housing is apparent. Further comment states, if the Market Study supports the feasibility of the proposed Development, the Department should not use the capture rate to disqualify that Development unless there is clear evidence (based on the Department's independent verifications) that the Market Study is flawed or fails to consider all applicable comparable units

Department Response: A Development proposed in a community that has not had a Development in recent years would be less likely to be impacted by the inclusive capture rate calculation since only the subject's proposed units would be considered. Moreover, the types of communities suggested in the first part of this comment are typically rural and the inclusive capture rate for rural areas allows up to 100% of the established demand to be captured before a negative recommendation is made. In response to the second part of the comment, the extent of the Market Study feasibility analysis as currently conceived is for the primary focus to be on the Development at hand, only. Unfortunately, because of timing differences, the Market Analyst is often not aware of recent Department awards and therefore, the Department's re-evaluation here is critical. The inclusive capture rate is designed to account for the effect of all proposed developments in the area. Furthermore, the last sentence of the comment does not offer a viable tool for underwriting. If the Market Study is flawed, staff would not have a means to calculate capture rate because of the need for a reliable demand calculation. No change is recommended.

§1.33(c)(2)(A) Market Analyst Qualifications.

Comment: Current language states, "Removal from the list of approved Market Analysts will not, in and of itself, invalidate a Market Analysis that has already been commissioned not more than 90 days before the Department's due date for submission as of the date the change in status of the Market Analyst is posted to the web." This language is difficult to read and confusing. Can it be clarified?

Department Response: Staff agrees and proposes the following:

(A) Removal from the list of approved Market Analysts will not, in and of itself, invalidate a Market Analysis. A Market Analysis, completed by a Market Analyst who is removed from the approved Market Analyst list, may be valid if the Market Analysis was commissioned before the Market Analyst's removal from the list, and this removal occurred less than 90 days before the Department's due date for submission of Market Analyses. For purposes of this paragraph, the effective date of removal from the approved Market Analyst list is the first date in which the Department's web posting no longer reflects the Market Analyst as being an approved Market Analyst. ~~that has already been commissioned not more than 90 days before the Department's due date for submission as of the date the change in status of the Market Analyst is posted to the web.~~

§1.33(d)(15)(A) Conclusions.

Comment: The term "subsidized rental rate conclusion" should be revised to reflect "restricted rental rate conclusions" to encompass units restricted under LIHTC program rules.

Department Response: Staff agrees that the use of the defined term "restricted" in place of "subsidized" is acceptable and the change is recommended.

(A) Provide a separate market and ~~subsidized-restricted~~ rental rate conclusion for each proposed unit type and rental restriction category. Conclusions of rental rates below the maximum net rent limit rents must be well reasoned, documented, consistent with the market data, and address any inconsistencies with the conclusions of the demand for the subject units.

§1.33(d)(15)(A) Conclusions.

Comment: The market rate rents should not be underwritten at a rate greater than 90% of the market rate rents for similar units in the market area. It is very common for lenders and syndicators to discount the market rate rents on an income restricted Development to this level. To underwrite at a higher rent level places a Development in serious jeopardy, especially if underwritten at less than 1.15 DCR.

Department Response: While staff agrees in principal with this recommendation, the Department already does not generally preclude an Applicant from anticipating market rents that are less than the Market Analyst's market rent conclusions so long as they are not less than the maximum restricted rent being charged. No change is recommended.

§1.33(d)(15)(D) Conclusions.

Comment: Current language states, "Calculate an inclusive capture rate for the subject Development defined as the sum of the proposed subject units plus any previously approved but unstabilized new comparable units in the Primary Market divided by the total income-eligible targeted renter demand identified by the Market Analysis for the subject Development's Primary Market Area. The Market Analyst should calculate a separate capture rate for the subject Development's proposed affordable units and market rate units as well as the subject Development as a whole." Proposed Language: "The Market Analyst should calculate a separate capture rate for the Development's proposed affordable units and market rate units as well as the Development as a whole. The capture rate of each applicable category (affordable, market rate, or both) shall be calculated individually and as follows: the sum of the proposed units in the Development plus any new Comparable Units located in the Primary Market Area that are in projects that have not achieved stabilized occupancy, divided by the total renter demand identified by the Market Analysis for the Primary Market." The new language is suggested to improve clarity.

Department Response: Staff agrees that clarification is needed, but the suggested language changes some of the intended meaning. Staff recommends the following:

(D) Calculate an inclusive capture rate for the subject Development defined as the sum of the proposed subject units plus any comparable units in previously approved new, but unstabilized Developments~~new Comparable Units~~ in the Primary Market, divided by the total income-eligible targeted renter demand identified by the Market Analysis for the subject Development's Primary Market Area. The Market Analyst should calculate a separate inclusive capture rate for the subject Development's proposed affordable units, ~~and~~ market rate units, ~~and as well as~~ the subject Development as a whole.

§1.33(d) Market Analysis Contents and (e) Single Family Developments.

Comment: Paragraph headings §1.33(d) deals with Market Analysis contents for multifamily Developments, and §1.33(e) deals with Market Analysis contents for single family Developments. In order to better distinguish these sections, it may be desirable to title §1.33(d) as "Market Analysis Contents Multifamily" and §1.33(e) as "Market Analysis Contents Single Family".

Department Response: Staff agrees with the proposed clarification and recommends the following:

(d) Market Analysis Contents - Multifamily. A Market Analysis for a ~~multifamily~~ Development prepared for the Department must be organized in a format that follows a logical progression and must include, at minimum, items addressed in paragraphs (1) through (17) of this subsection.

(e) Market Analysis Contents - Single Family~~Developments~~.

§1.33(g) Market Analysis Rules and Guidelines.

Comment: Current language states, ". . . the Department . . . may substitute its own analysis and underwriting conclusions for those submitted by the Market Analyst." If the Department is going to certify Market Analysts as "qualified", then it should rely on the recommendations of those Analysts and should not substitute its own discretionary conclusions without some extraordinary circumstances. Comment was also received via comments on §49.9(e)(13)(B) of the draft 2003 Qualified Allocation Plan which states, "The Department does not have to rely on the Market Analyst and may substitute its own analysis and conclusions for those submitted by the qualified Market Analyst." In the event there is a Market Study disagreement, there needs to be an independent third party binding arbitration review to settle the issue. The Department, the Market Analyst, and the Developer may have valid reasons to assert a position. In fairness to all, a third party binding arbitrator can objectively review all the issues and render an unbiased opinion. It was also suggested that the arbiter should be an independent third party with no working history of either the Department or the Applicant.

Department Response: The current language is not new and no comment had been made to change it prior to the posting of these draft rules. The statement has been in the QAP since at least 1997 and preserves the Department's overall discretion to disagree with the conclusions of a particular Market Study. Applicants have the ability to appeal underwriting conclusions and could ask for a third party arbitrator on a case-by-case basis. Moreover, the time and resource constraints for the allocation process would preclude introducing another appeal process. Staff does not recommend a change.

§1.35(a) Environmental Site Assessment Guidelines.

Comment: The rule appears to exclude all environmental professionals who are not environmental or professional engineers from conducting a Phase I Environmental Site Assessment for the Department. A revision to the current language was suggested as follows: "The environmental assessment shall be conducted by a qualified environmental professional and be prepared at the expense of the Development Owner." The intent is to allow all environmental professionals with appropriate qualifications to be included.

Department Response: The current language is not new and has been part of the QAP for several years, staff recommends researching the issue and setting up an ad hoc group to focus on revising the Environmental Site Assessment Rules and Guidelines during the coming year.

§1.35(a)(1) Environmental Site Assessment Guidelines.

Comment: Current language states, "The report must include, but is not limited to:" The opening phrase of §1.35(a)(1) purports to set forth a list of information that must be included in the Environmental Site Assessment. However, §1.35(a)(1)(C) states that a noise study "is recommended". This implies that the noise study is discretionary and not mandatory, which is inconsistent with the opening phrase of this section. Similarly, §1.35(a)(1)(D) states that a survey should be provided "if available." This also implies that the survey is discretionary and not mandatory, which is inconsistent with the opening phrase of this section. Because §1.35(a)(1) presents a list, ";and" should be added after clause (E) and it should be deleted after clause (F).

Department Response: Staff agrees with the comment and recommends adjusting §1.35 accordingly.

(1) The report must include, but is not limited to:

(A) A review of records, interviews with people knowledgeable about the property;

(B) A certification that the environmental engineer has conducted an inspection of the property, the building(s), and adjoining properties, as well as any other industry standards concerning the preparation of this type of environmental assessment;

~~(C) A noise study is recommended for property located adjacent to or in close proximity to industrial zones, major highways, active rail lines, and civil and military airfields;~~

~~(DC)~~ A copy of a current survey, ~~if available,~~ or other drawing of the site reflecting the boundaries and adjacent streets, all improvements on the site, and any items of concern described in the body of the environmental site assessment or identified during the physical inspection;

~~(ED)~~ A copy of the current FEMA Flood Insurance Rate Map showing the panel number and encompassing the site with the site boundaries precisely identified and superimposed on the map. A determination of the flood risk for the proposed Development described in the narrative of the report includes a discussion of the impact of the 100-year floodplain on the proposed Development based upon a review of the current site plan; and

~~(FE) The report should include a~~ statement that clearly states that the person or company preparing the environmental assessment will not materially benefit from the Development in any other way than receiving a fee for the environmental assessment; ~~and.~~

(2) A noise study is recommended for property located adjacent to or in close proximity to industrial zones, major highways, active rail lines, and civil and military airfields.

~~(23)~~ If the report recommends further studies or establishes that environmental hazards currently exist on the Property, or are originating off-site but would nonetheless affect the Property, the Development Owner must act on such a recommendation or provide a plan for either the abatement or elimination of the hazard. Evidence of action or a plan for the abatement or elimination of the hazard must be presented upon Application submittal.

~~(34)~~ For Developments which have had a Phase II Environmental Assessment performed and hazards identified, the Development Owner is required to maintain a copy of said assessment on site available for review by all persons which either occupy the Development or are applying for tenancy.

~~(45)~~ Developments whose funds have been obligated by TxRD will not be required to supply this information; however, the Development Owners of such Developments are hereby notified that it is their responsibility to ensure that the Development is maintained in compliance with all state and federal environmental hazard requirements.

~~(56)~~ Those Developments which have or are to receive first lien financing from HUD may submit HUD's environmental assessment report, provided that it conforms with the requirements of this subsection.

REQUESTS THROUGH PUBLIC COMMENT FOR CLARIFICATION

§1.31(b)(1) Definition of Affordable Housing.

Comment: Current language states, "Housing that has been funded . . . or has at least one unit that is restricted in the rent that can be charged either by a Land Use Restriction Agreement or other form of Deed Restriction or by natural market forces at the equivalent of 30% of 100% of an area's median income as determined by HUD." What does it mean for rents to be restricted by "natural market forces," and does this language help in the understanding of the definition of Affordable Housing?

Department Response: The definition is intended to suggest that market rate units that rent at or below 30% of AMI due to "natural market forces" are affordable even if they are not restricted by LURA to this rent level.

§1.32(c)(2) Equity Gap Method.

Comment: Current language states, "This method evaluates the amount of funds needed to fill the gap created by total Development cost less total non-Department-sourced funds." Does this language work in circumstances where an Applicant requests funding under multiple TDHCA programs?

Department Response: The language that follows the quoted sentence addresses multiple Department programs.

§1.32(d)(2) Miscellaneous Income.

Comment: Current language states, "Exceptions must be justified by operating history of existing comparable properties . . ." What if there are no comparable properties? For instance, what if this is the first property in this area to provide certain kinds of services?

Department Response: Staff believes there would be significantly more risk associated with the Development's ability to rely on a fee for a service that has not been tested in the market place. Therefore, reliance on it would be more speculative and generally should not be relied upon.

§1.32(d)(2) Miscellaneous Income.

Comment: Current language states, "Collection rates of these exceptional fee items will generally be heavily discounted." What does the highlighted language mean? This appears to give the Department a great deal of discretion in calculation without any discernible standards.

Department Response: Because there are a myriad of potential fees that could be considered and because some are more speculative than others, the allowance of anything over the standard \$5 to \$15 per unit must be evaluated on a case-by-case basis. Likewise, the appropriate amount of the discount must be evaluated on a case-by-case basis depending on the reliability of the documentation provided.

§1.32(d)(6)(C) Acceptable Debt Coverage Ratio Range.

Comment: Current language states, "Any adjustments in debt service will become a condition of the Report, however, future changes in income, expenses, rates, and terms could allow additional adjustment to the final debt amount to be acceptable." Many transactions have a change in the debt service between the time they are underwritten and the time the final permanent loan is closed. What does the sentence above mean for that scenario? If a change in the debt structure is a condition to the commitment, then virtually every Development Owner will need to come back to the Department with a revised debt service plan at the time of permanent loan closing. This places a significant burden on the Department and creates uncertainty for the Development Owner in trying to syndicate its tax credits.

Department Response: Staff believes that SB 322 and the QAP already require every Development owner to come back to the Department with a revised debt structure as a material change when that occurs. In addition, every deal is already required to be re-evaluated for feasibility at cost certification. The language in this rule is intended to provide some acknowledgement to the Applicant of the Department's understanding that structures and conditions can and do change.

§1.32(e) Development Costs.

Comment: Current language states, "In the case of a rehabilitation Development, the Underwriter may use a lower tolerance level, due to the reliance upon the Applicant's authorized Third Party cost assessment." What does this mean? It appears to give the Department a great deal of discretion in calculation without any discernible standards.

Department Response: The statement means that if the Applicant provides a third party cost assessment, the Underwriter may use it to determine the appropriate fund amount even if the Applicant's figure is within 5% of the third party assessment.

§1.32(e)(4)(A) New Construction.

Comment: Current language states, "Whenever the Applicant's estimate is more than five percent greater or less than the Underwriter's Marshall and Swift based estimate, the Underwriter will attempt to reconcile this concern and ultimately identify this as a cost concern in the Report." The language says that the Underwriter will attempt to reconcile deviations. What does this mean for the feasibility of the Development and the Underwriter's ultimate recommendation for

funding? Further, the Department requires the Market Analyst to determine if the cost of construction is reasonable. Why isn't this used for the analysis if it is required?

Department Response: The underwriting report will denote differences in Development costs and will identify them as a salient Development risk. The Market Analyst is not required to make such a determination.

§1.32(e)(8) Financing Costs.

Comment: We want to be sure that limiting construction period interest to one year of fully drawn interest on the construction loan applies only to limit eligible basis and not to limit total costs for gap calculation purposes. Each project is unique and leases up at its own rate. Seniors projects, in particular, are slow to lease up, and the construction loan may be outstanding for more than a year. Limiting the eligible basis may not affect the deal, but the costs are real and should be allowed for gap calculation purposes.

Department Response: This statement pertains to eligible basis only. The remaining "excess" interim interest cost would be removed to ineligible cost and, therefore, would be included in gap calculation.

§1.33(c)(1) Market Analyst Qualifications.

Comment: When is this information submitted? How much discretion is the Department going to have in placing a Market Analyst on the list or removing a Market Analyst from the list after receiving this?

Department Response: This information must be submitted before a Market Analyst can be placed on the approved list. If it is provided, they will be placed on the list and they will remain on the list until they ask to be removed or until removal as described in §1.33(c)(2) occurs.

§1.33(d)(13)(A) Comparable Property Analysis.

Comment: "Total adjustments made to the Comparable Units in excess of 15% suggest a weak comparable." What are the implications of this for the underwriting and the potential allocation of funding?

Department Response: This provides the Market Analyst with a guideline beyond which the Department would require additional explanation. Without the additional explanation, the underwriting report would indicate a reduced confidence in the conclusions of the study.

MINOR TECHNICAL CHANGES FOR CONSISTENCY

§§1.32 and 1.33 Defined Terms.

Comment: A number of terms are capitalized and defined in §1.31(b). Once they are defined, they should be used as capitalized, defined terms consistently throughout the Guidelines. Consistency in the use of defined terms ensures uniform interpretation of the Guidelines in a manner that is consistent with the Department's intent. The following defined terms should be capitalized in the Sections described below.

Applicant	§§1.33(d)(15)(B), 1.33(g)
Debt Coverage Ratio	§§1.32(d), 1.32(d)(5)(J)(i), 1.32(d)(5)(J)(iii), 1.32(d)(6)
Development	§1.32(d)(1)(B)
Market Analyst	§§1.33(c), 1.33(c)(1), 1.33(c)(2), 1.33(c)(2)(A)
Market Study	§§1.32(d)(2), 1.33(e)(1)
Net Operating Income	§1.32(d)
Program Rents	§1.32(d)(1)

Department Response: Staff recommends the change.

§1.31(b)(3) Definition of Cash Flow.

Comment: Current language states, "The funds available from operations after all expenses and debt service required to be paid has been considered." Due to a tense problem, the statement should be changed to: "The funds available from operations after all expenses and debt service required to be paid have been considered."

Department Response: Staff recommends the change.

§1.32(d)(2) Miscellaneous Income.

Comment: Current language states, "Any estimates for secondary income above or below this amount are only considered if they are well documented by the financial statements of comparable properties as being achievable in the proposed market area as determined by the Underwriter." "Market area" should be changed to "Primary Market".

Department Response: Staff recommends the change.

§1.32(d)(3) Vacancy and Collection Loss.

Comment: Current language states, "The Underwriter uses a vacancy rate of 7.5% (5% vacancy plus 2.5% for collection loss) unless the Market Analysis reflects a higher or lower established vacancy rate for the area." Change "area" to "Primary Market". Use of a defined term is always preferable for clarity of interpretation.

Department Response: Staff recommends the change.

§1.32(d)(6)(B) Term.

Comment: Current language states, "The primary debt loan term is reflected in the commitment letter." For clarity, the statement should be changed to: "The primary debt loan term utilized by the Underwriter is the one reflected in the commitment letter."

Department Response: Staff recommends the change.

§1.32(d)(7) Long Term Feasibility.

Comment: Current language states, "The base year projection utilized is the Underwriter's EGI, expenses, and NOI unless the Applicant's EGI, total expenses, and NOI are each within five percent" To make language consistent internally and also consistent with a similar provision in Section 1.32(d)(6), the statement should be changed to: "The base year projection utilized is the Underwriter's EGI, total expenses, and NOI unless the Applicant's EGI, total expenses, and NOI are each within five percent"

Department Response: Staff recommends the change.

§1.32(e)(2) Off-Site Costs.

Comment: Current language states, "Off-Site costs are costs of Development up to the site itself such as the cost of roads, water, sewer and other utilities to provide the site with access." For clarity, the statement should be changed to: "Off-site costs are Development costs for work done outside of the actual Development site such as the cost of roads, water, sewer and other utilities to provide the site with access."

Department Response: Staff recommends the change.

§1.32(e)(4)(A) New Construction.

Comment: Current language states, "Whenever the Applicant's estimate is more than five percent greater or less than the Underwriter's Marshall and Swift based estimate, the Underwriter will attempt to reconcile this concern and ultimately identify this as a cost concern in the Report." Note, the incorrect spelling of the word "five".

Department Response: The spelling correction from "fiver" to "five" is recommended.

§1.32(e)(5) Hard Cost Contingency.

Comment: Current language states, "The Applicant's figure is used by the Underwriter if the figure is less than five percent (5%)." For balance with the immediately preceding sentence, the statement should be changed to: "The Applicant's figure is used by the Underwriter if the figure is less than five percent (5%) or ten percent (10%), respectively."

Department Response: Staff recommends the change.

§1.32(e)(10) Other Soft Costs.

Comment: Current language states, ". . . the Applicant is given an opportunity to clarify and address the concern prior to removal from basis." Due to a spelling error, the statement should be changed to: ". . . the Applicant is given an opportunity to clarify and address the concern prior to removal from basis."

Department Response: Staff recommends the change.

§1.34(e)(13)(D) Description of Improvements.

Comment: Current language states, "Provide a thorough description and analysis of the improvement . . ." To correct syntax, the statement should be changed to: "Provide a thorough description and analysis of the improvements . . ."

Department Response: Staff recommends the change.

§1.34(e)(15)(B)(ii)(III) NOI/Unit of Comparison.

Comment: Current language states, "If used in the report, the net income statistics for the comparables for must . . ." To correct syntax, the statement should be changed to: "If used in the report, the net income statistics for the comparables must . . ."

Department Response: Staff recommends the change.

§1.34(e)(15)(C)(iii) Vacancy/Collection Loss.

Comment: Current language states, ". . . overall occupancy data for the subject's market area." Change "market area" to "Primary Market." Use of a defined term is always preferable for clarity of interpretation.

Department Response: Staff recommends the change.

END OF PUBLIC COMMENT



2003 Underwriting, Market Analysis, Appraisal, and Environmental Site Assessment Rules and Guidelines

TITLE 10
PART 1
CHAPTER 1
SUBCHAPTER B UNDERWRITING, MARKET ANALYSIS, APPRAISAL, AND ENVIRONMENTAL SITE ASSESSMENT RULES AND GUIDELINES

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§1.31 General Provisions.

(a) Purpose. The Rules in this subchapter apply to the underwriting, market analysis, appraisal, and environmental site assessment standards employed by the Texas Department of Housing and Community Affairs (the “Department” or “TDHCA”). This chapter provides rules for the underwriting review of an affordable housing ~~development~~Development’s financial feasibility and economic viability. In addition, this chapter guides the underwriting staff in making recommendations to the Executive Award and Review Advisory Committee (“the Committee”), Executive Director, and TDHCA Governing Board (“the Board”) to help ensure procedural consistency in the award determination process. Due to the unique characteristics of each ~~development~~Development the interpretation of the rules and guidelines described in subchapter B of this chapter is subject to the discretion of the Department and final determination by the Board.

(b) Definitions. Many of the terms used in this subchapter are defined in 10TAC §§49 and 50 of this title (the Department’s Low Income Housing Tax Credit Program Qualified Allocation Plan and Rules, known as the “QAP”). Those terms that are not defined in the QAP or which may have another meaning when used in subchapter B of this title, shall have the meanings set forth in this subsection unless the context clearly indicates otherwise.

(1) Affordable Housing—Housing that has been funded through one or more of the Department’s programs or other local, state or federal programs or has at least one unit that is restricted in the rent that can be charged either by a Land Use Restriction Agreement or other form of Deed Restriction or by natural market forces at the equivalent of 30% of 100% of an area’s median income as determined by the United States Department of Housing and Urban ~~development~~Development (“HUD”).

(2) Affordability Analysis—An analysis of the ability of a prospective buyer or renter at a specified income level to buy or rent a housing unit at specified price or rent.

(3) Cash Flow--The funds available from operations after all expenses and debt service required to be paid ~~has have~~ been considered.

(4) Credit Underwriting Analysis Report—Sometimes referred to as the “Report.” A decision making tool used by the Department and Board, described more fully in §1.32(a) and (b) of this subchapter.

(5) Comparable Unit—A unit of housing that is of similar type, age, size, location and other discernable characteristics that can be used to compare and contrast from a proposed or existing unit.

(6) DCR--Debt Coverage Ratio. Sometimes referred to as the “Debt Coverage” or “Debt Service Coverage.” A measure of the number of times the required payments of loan principal and interest are covered by Net Operating Income.~~A measure of the number of times loan principal and interest are covered by net after tax income.~~

(7) Development—Proposed multi-unit residential housing that meets the affordability requirements for and requests funds from one or more of the Department’s sources of funds.

(8) EGI--Effective Gross Income. The sum total of all sources of anticipated or actual income for a rental Development less vacancy and collection loss, leasing concessions, and rental income from employee-occupied units that is not anticipated to be charged or collected.

(9) Gross Program Rent—Sometimes called the “Program Rents.” Maximum Rent Limits based upon the tables promulgated by the Department’s division responsible for compliance by program and by county or Metropolitan Statistical Area (“MSA”) or Primary Metropolitan Statistical Area (“PMSA”).

(10) HUD--The United States Department of Housing and Urban Development. The department of the US Government responsible for major housing and urban Development programs, including programs that are redistributed through the State such as HOME and CDBG.

(11) Local Amenities-- Amenities located near and available to the tenants of a proposed Development, including but not limited to police and fire protection, transportation, healthcare, retail, grocers, educational institutions, employment centers, parks, public libraries, and entertainment centers. ~~Include, but are not limited to police and fire protection, transportation, healthcare, retail, grocers, educational institutions, employment centers, parks, public libraries, entertainment centers, etc.~~

(12) Low Income Housing Tax Credit(s)--Sometimes referred to as “LIHTC” or “Tax Credit(s).” A financing source allocated by the Department as determined by the QAP. The Tax Credits are typically sold through syndicators to raise equity for the Development.

(13) Market Analysis—Sometimes referred to as a Market Study. An evaluation of the economic conditions of supply, demand and pricing conducted in accordance with the Department’s Market Analysis Rules and Guidelines in §1.33 of this subchapter as it relates to a specific Development

(14) Market Analyst—An individual or firm providing market information for use by the Department.

(15) Market Rent—The unrestricted rent concluded by the Market Analyst for a particular unit type and size after adjustments are made to Comparable Units.

(16) NOI--Net Operating Income. The income remaining after all operating expenses, including replacement reserves and taxes have been paid.

(17) Primary Market—Sometimes referred to as “Primary Market Area” or “Submarket.” The area defined from which political/geographical boundaries that a proposed or existing Development is most likely to draw the bulk of its prospective tenants or homebuyers.

(18) Rent Over-Burdened Households-- Non-elderly households paying more than 35% of gross income towards total housing expenses (unit rent plus utilities) and elderly households paying more than 40% of gross income towards total housing expenses.

(19) Sustaining Occupancy--The occupancy level at which rental income plus secondary income is equal to all operating expenses and mandatory debt service requirements for a Development.

(20) TDHCA Operating Expense Database—Sometimes called the TDHCA Database. This is a consolidation of recent actual operating expense information collected through the Department’s Annual Owner Financial Certification process and published on the Department’s web site.

(21) Third Party--A Third Party is a Person which is not an Affiliate, Related Party, or Beneficial Owner of the Applicant, General Partner(s), Developer, or Person receiving any portion of the developer fee or contractor fee.

(22) Underwriter—the author(s), as evidenced by signature, of the Credit Underwriting Analysis Report.

(23) Unstabilized Development— A Development that has not maintained a 90% occupancy level for at least 12 consecutive months.

(24) Utility Allowance(s)—The estimate of tenant-paid utilities, based either on the most current HUD Form 52667, “Section 8, Existing Housing Allowance for Tenant-Furnished Utilities and Other Services”, provided by the appropriate local Public Housing Authority ~~with most direct jurisdiction over the majority of the buildings existing~~ consistent with the current QAP or a documented estimate from the utility provider proposed in the Application. Documentation from the local utility provider to support an alternative calculation can be used to justify alternative Utility Allowance conclusions but must be specific to the subject Development and consistent with the building plans provided.

§1.32. Underwriting Rules and Guidelines.

(a) General Provisions. The Department, through the division responsible for underwriting, produces or causes to be produced a Credit Underwriting Analysis Report (the “Report”) for every Development

recommended for funding through the Department. The primary function of the Report is to provide the Committee, Executive Director, the Board, ~~applicant~~Applicants, and the public a comprehensive analytical report and recommendations necessary to make well informed decisions in the allocation or award of the State's limited resources. The Report in no way guarantees or purports to warrant the actual performance, feasibility, or viability of the Development by the Department.

(b) Report Contents. The Report provides an organized and consistent synopsis and reconciliation of the application information submitted by the Applicant. At a minimum, the Report includes:

- (1) Identification of the Applicant and any principals of the Applicant;
- (2) Identification of the funding type and amount requested by the Applicant;
- (3) The Underwriter's funding recommendations and any conditions of such recommendations;
- (4) Evaluation of the affordability of the proposed housing units to prospective residents;
- (5) Review and analysis of the Applicant's operating proforma as compared to industry information, similar Developments previously funded by the Department, and the Department guidelines described in this section;
- (6) Analysis of the Development's debt service capacity;
- (7) Review and analysis of the Applicant's Development budget as compared to the estimate prepared by the Underwriter under the guidelines in this section;
- (8) Evaluation of the commitment for additional sources of financing for the Development;
- (9) Review of the experience of the Development team members;
- (10) Identification of related interests among the members of the Development team, Third Party service providers and/or the seller of the property;
- (11) Analysis of the Applicant's and principals' financial statements and creditworthiness including a review of the credit report for each of the principals in for-profit Developments subject to the Texas Public Information Act;
- (12) Review of the proposed Development plan and evaluation of the proposed improvements and architectural design;
- (13) Review of the Applicant's evidence of site control and any potential title issues that may affect site control;
- (14) Identification and analysis of the site which includes review of the independent site inspection report prepared by a TDHCA staff member;
- (15) Review of the Phase I Environmental Site Assessment in conformance with the Department's Environmental Site Assessment Rules and Guidelines in §1.35 of this subchapter or soils and hazardous material reports as required; and,
- (16) Review of market data and ~~market study~~Market Study information and any valuation information available for the property in conformance with the Department's Market Analysis Rules and Guidelines in §1.33 of this subchapter.

(c) Recommendations in the Report. The conclusion of the Report includes a recommended award of funds or allocation of Tax Credits based on the lesser amount calculated by the eligible basis method (if applicable), equity gap method, or the amount requested by the Applicant as further described in paragraphs (1) through (3) of this subsection.

(1) Eligible Basis Method. This method is only used for Developments requesting Low Income Housing Tax Credits. This method is based upon calculation of eligible basis after applying all cost verification measures and limits on profit, overhead, general requirements, and developer fees as described in this section. The Applicable Percentage used in the Eligible Basis Method is as defined in the QAP.

(2) Equity Gap Method. This method evaluates the amount of funds needed to fill the gap created by total Development cost less total non-Department-sourced funds. In making this determination, the Underwriter resizes any anticipated deferred developer fee down to zero before reducing the amount of Department funds. In the case of Low Income Housing Tax Credits, the syndication proceeds are divided by the syndication rate to determine the amount of Tax Credits. In making this determination, the Department adjusts the permanent loan amount and/or any Department-sourced loans, as necessary, such that it conforms to the NOI and DCR standards described in this section.

(3) The Amount Requested. This is the amount of funds that is requested by the Applicant as reflected in the application documentation.

(d) Operating Feasibility. The operating financial feasibility of every Development funded by the Department is tested by adding total income sources and subtracting vacancy and collection losses and operating expenses to determine ~~net operating income~~Net Operating Income. This ~~net operating income~~Net

Operating Income is divided by the annual debt service to determine the ~~debt coverage ratio~~Debt Coverage Ratio. The Underwriter characterizes a Development as infeasible from an operational standpoint when the ~~debt coverage ratio~~Debt Coverage Ratio does not meet the minimum standard set forth in paragraph (6) of this subsection. The Underwriter may choose to make adjustments to the financing structure, such as lowering the debt and increasing the deferred developer fee that could result in a re-characterization of the Development as feasible based upon specific conditions set forth in the Report.

(1) Rental Income. The Program Rent less Utility Allowances and/or Market Rent (if the project is not 100% affordable) is utilized by the Underwriter in calculating the rental income for comparison to the Applicant's estimate in the application. Where multiple programs are funding the same units, the lowest Program Rents for those units is used. If the Market Rents, as determined by the Market Analysis, are lower than the net ~~program rents~~Program Rents, then the Market Rents for those units are utilized.

(A) Market Rents. The Underwriter reviews the Attribute Adjustment Matrix of Market Rent comparables by unit size provided by the Market Analyst and determines if the adjustments and conclusions made are reasoned and well documented. The Underwriter uses the Market Analyst's conclusion of adjusted Market Rent by unit, as long as the proposed Market Rent is reasonably justified and does not exceed the highest existing unadjusted market comparable rent. Random checks of the validity of the Market Rents may include direct contact with the comparable properties. The Market Analyst's Attribute Adjustment Matrix should include, at a minimum, adjustments for location, size, amenities, and concessions as more fully described in §1.33 of this subchapter, the Department's Market Analysis Rules and Guidelines.

(B) Program Rents. The Underwriter reviews the Applicant's proposed rent schedule and determines if it is consistent with the representations made in the remainder of the application. The Underwriter uses the Program Rents as promulgated by the Department's Compliance Division for the year that is most current at the time the underwriting begins. When underwriting for a simultaneously funded competitive round, all of the applications are underwritten with the rents promulgated for the same year. Program Rents are reduced by the Utility Allowance. The Utility Allowance figures used are determined based upon what is identified in the application by the Applicant as being a utility cost paid by the tenant and upon other consistent documentation provided in the application. Water and sewer can only be a tenant-paid utility if the units will be individually metered for such services. Gas utilities are verified on the building plans and elsewhere in the application when applicable. Trash allowances paid by the tenant are rare and only considered when the building plans allow for individual exterior receptacles. Refrigerator and range allowances are not considered part of the tenant-paid utilities unless the tenant is expected to provide their own appliances, and no eligible appliance costs are included in the Development cost breakdown.

(2) Miscellaneous Income. All ancillary fees and miscellaneous secondary income, including but not limited to late fees, storage fees, laundry income, interest on deposits, carport rent, washer and dryer rent, telecommunications fees, and other miscellaneous income, are anticipated to be included in a \$5 to \$15 per unit per month range. Any estimates for secondary income above or below this amount are only considered if they are well documented by the financial statements of comparable properties as being achievable in the proposed ~~market area~~Primary Market as determined by the Underwriter. Exceptions may be made for special uses, such as garages, congregate care/assisted living/elderly facilities, and child care facilities. Exceptions must be justified by operating history of existing comparable properties and should also be documented as being achievable in the submitted ~~market study~~Market Study. The Applicant must show that the tenant will not be required to pay the additional fee or charge as a condition of renting an apartment unit and must show that the tenant has a reasonable alternative. Collection rates of these exceptional fee items will generally be heavily discounted. If the total secondary income is over the maximum per unit per month limit, any cost associated with the construction, acquisition, or Development of the hard assets needed to produce an additional fee may also need to be reduced from eligible basis for Tax Credit Developments as they may, in that case, be considered to be a commercial cost rather than an incidental to the housing cost of the Development. The use of any secondary income over the maximum per unit per month limit that is based on the factors described in this paragraph is subject to the determination by the Underwriter that the factors being used are well documented.

(3) Vacancy and Collection Loss. The Underwriter uses a vacancy rate of 7.5% (5% vacancy plus 2.5% for collection loss) unless the Market Analysis reflects a higher or lower established vacancy rate for the ~~area~~Primary Market. Elderly and 100% project-based rental subsidy Developments and other well

documented cases may be underwritten at a combined 5% at the discretion of the Underwriter if the historical performance reflected in the Market Analysis is consistently higher than a 95% occupancy rate.

(4) Effective Gross Income (“EGI”). The Underwriter independently calculates EGI. If the EGI figure provided by the Applicant is within five percent of the EGI figure calculated by the Underwriter, the Applicant’s figure is characterized as acceptable or reasonable in the Report, however, for purposes of calculating DCR the Underwriter will maintain and use its independent calculation of EGI regardless of the characterization of the Applicant’s figure.

(5) Expenses. The Underwriter evaluates the reasonableness of the Applicant’s expense estimate based upon line item comparisons with specific data sources available. Evaluating the relative weight or importance of the expense data points is one of the most subjective elements of underwriting. Historical stabilized certified or audited financial statements of the property will reflect the strongest data points to predict future performance. The Department also maintains a database of performance of other similar sized and type properties across the State. In the case of a new Development, the Department’s database of property in the same location or region as the proposed Development provides the most heavily relied upon data points. The Department also uses data from the Institute of Real Estate Management’s (IREM) most recent *Conventional Apartments-Income/Expense Analysis* book for the proposed Development’s property type and specific location or region. In some cases local or project-specific data such as Public Housing Authority (“PHA”) Utility Allowances and property tax rates are also given significant weight in determining the appropriate line item expense estimate. Finally, well documented information provided in the Market Analysis, the application, and other well documented sources may be considered. In most cases, the data points used from a particular source are an average of the per unit and per square foot expense for that item. The Underwriter considers the specifics of each transaction, including the type of Development, the size of the units, and the Applicant’s expectations as reflected in the proforma to determine which data points are most relevant. The Underwriter will determine the appropriateness of each data point being considered and must use their reasonable judgment as to which one fits each situation. The Department will create and utilize a feedback mechanism to communicate and allow for clarification by the Applicant when the overall expense estimate is over five percent greater or less than the Underwriter’s estimate or when specific line items are inconsistent with the Underwriter’s expectation based upon the tolerance levels set forth for each line item expense in subparagraphs (A) through (J) of this paragraph. If an acceptable rationale for the individual or total difference is not provided, the discrepancy is documented in the Report and the justification provided by the Applicant and the countervailing evidence supporting the Underwriter’s determination is noted. If the Applicant’s total expense estimate is within five percent of the final total expense figure calculated by the Underwriter, the Applicant’s figure is characterized as acceptable or reasonable in the Report, however, for purposes of calculating DCR the Underwriter will maintain and use its independent calculation of expenses regardless of the characterization of the Applicant’s figure.

(A) General and Administrative Expense. General and Administrative Expense includes all accounting fees, legal fees, advertising and marketing expenses, office operation, supplies, and equipment expenses. Historically, the TDHCA Database average has been used as the Department’s strongest initial data point as it has generally been consistent with IREM regional and local figures. The underwriting tolerance level for this line item is 20%.

(B) Management Fee. Management Fee is paid to the property management company to oversee the effective operation of the property and is most often based upon a percentage of Effective Gross Income as documented in the management agreement contract. Typically, five percent of the effective gross income is used, though higher percentages for rural transactions that are consistent with the TDHCA Database can be concluded. Percentages as low as three percent may be utilized if documented with a Third Party management contract agreement with an acceptable management company. The Underwriter will require documentation for any percentage difference from the 5% of the Effective Gross Income standard.

(C) Payroll and Payroll Expense. Payroll and Payroll Expense includes all direct staff payroll, insurance benefits, and payroll taxes including payroll expenses for repairs and maintenance typical of a conventional Development. It does not, however, include direct security payroll or additional supportive services payroll. In urban areas, the local IREM per unit figure has historically held considerable weight as the Department’s strongest initial data point. In rural areas, however, the TDHCA Database is often considered more reliable. The underwriting tolerance level for this line item is 10%.

(D) Repairs and Maintenance Expense. Repairs and Maintenance Expense includes all repairs and maintenance contracts and supplies. It should not include extraordinary capitalized expenses that would result from major renovations. Direct payroll for repairs and maintenance activities are included in payroll expense. Historically, the TDHCA Database average has been used as the Department's strongest data point as it has generally been consistent with IREM regional and local figures. The underwriting tolerance level for this line item is 20%.

(E) Utilities Expense (Gas & Electric). Utilities Expense includes all gas and electric energy expenses paid by the owner. It includes any pass-through energy expense that is reflected in the unit rents. Historically, the lower of an estimate based on 25.5% of the PHA local Utility Allowance or the TDHCA Database or local IREM averages have been used as the most significant data point [for utility expenses attributable to common areas](#). The higher amount may be used, however, if the current typical higher efficiency standard utility equipment is not projected to be included in the Development upon completion or if the higher estimate is more consistent with the Applicant's projected estimate. Also a lower or higher percentage of the PHA allowance may be used, depending on the amount of common area, and adjustments will be made for utilities typically paid by tenants that in the subject are owner-paid as determined by the Underwriter. The underwriting tolerance level for this line item is 30%.

(F) Water, Sewer and Trash Expense. Water, Sewer and Trash Expense includes all water, sewer and trash expenses paid by the owner. It would also include any pass-through water, sewer and trash expense that is reflected in the unit rents. Historically, the lower of the PHA allowance or the TDHCA Database average has been used. The underwriting tolerance level for this line item is 30%.

(G) Insurance Expense. Insurance Expense includes any insurance for the buildings, contents, and liability but not health or workman's compensation insurance. Historically, the TDHCA Database is used with a minimum \$0.16 per net rentable square foot. Additional weight is given to a Third Party bid or insurance cost estimate provided in the application reflecting a higher amount for the proposed Development. The underwriting tolerance level for this line item is 50%.

(H) Property Tax. Property Tax includes all real and personal property taxes but not payroll taxes. The TDHCA Database is used to interpret a per unit assessed value average for similar properties which is applied to the actual current tax rate. The per unit assessed value is most often contained within a range of \$15,000 to \$35,000 but may be higher or lower based upon documentation from the local tax assessor. Location, size of the units, and comparable assessed values also play a major role in evaluating this line item expense. Property tax exemptions or proposed payment in lieu of taxes (PILOT) must be documented as being reasonably achievable if they are to be considered by the Underwriter. For Community Housing Development Organization ("CHDO") owned or controlled properties, [this documentation includes, at a minimum, a letter from the local appraisal district recognizing that the Applicant is or will be considered eligible for the ad valorem tax exemption](#) ~~this documentation includes, at a minimum, evidence of the CHDO designation from the State or local participating jurisdiction and a letter from the local taxing authority recognizing that the Applicant is or will be considered eligible for the property exemption.~~ The underwriting tolerance level for this line item is 10%.

(I) Reserves. Reserves include annual reserve for replacements of future capitalizable expenses as well as any ongoing additional operating reserve requirements. The Underwriter includes reserves of \$200 per unit for new construction and \$300 per unit for rehabilitation Developments. Higher levels of reserves may be used if they are documented in the financing commitment letters. The Underwriter will require documentation for any difference from the \$200 new construction and \$300 rehabilitation standard.

(J) Other Expenses. The Underwriter will include other reasonable and documented expenses, other than depreciation, interest expense, lender or syndicator's asset management fees, or other ongoing partnership fees. Lender or syndicator's asset management fees or other ongoing partnership fees are not considered in the Department's calculation of debt coverage in any way. The most common other expenses are described in more detail in clauses (i) through (iii) of this subparagraph.

(i) Supportive Services Expense. Supportive Services Expense includes the cost to the owner of any non-traditional tenant benefit such as payroll for instruction or activities personnel. Documented contract costs will be reflected in Other Expenses. Any selection points for this item will be evaluated prior to underwriting. The Underwriter's verification will be limited to assuring any documented costs are included. For all transactions supportive services expenses are considered part of Other Expenses and are considered part of the ~~debt coverage ratio~~ [Debt Coverage Ratio](#).

(ii) Security Expense. Security Expense includes contract or direct payroll expense for policing the premises of the Development and is included as part of Other Expenses. The Applicant's amount is moved to Other Expenses and typically accepted as provided. The Underwriter will require documentation of the need for security expenses that exceed 50% of the anticipated payroll and payroll expenses estimate discussed in subsection (d)(4)(C) of this section.

(iii) Compliance Fees. Compliance fees include only compliance fees charged by TDHCA. The Department's charge for a specific program may vary over time, however, the Underwriter uses the current charge per unit per year at the time of underwriting. For all transactions compliance fees are considered part of Other Expenses and are considered part of the ~~debt coverage ratio~~ Debt Coverage Ratio.

(6) Net Operating Income and Debt Service. ~~NOI is the difference between the EGI and total operating expenses. The Underwriter will review the Development's proposed NOI and DCR and determine an acceptable debt level for the Development. If the Applicant's EGI, total expenses, and NOI are each within five percent of the Underwriter's estimates, then the Applicant's estimate of NOI will be used to determine the acceptable debt level for the Development. Otherwise, the Underwriter's estimate of NOI will be used to determine the acceptable debt level for the Development. If the NOI figure provided by the Applicant is within five percent of the NOI figure calculated by the Underwriter, the Applicant's figure is characterized as acceptable or reasonable in the Report, however, for purposes of calculating the DCR the Underwriter will maintain and use its independent calculation of NOI regardless of the characterization of the Applicant's figure. Only if the Applicant's EGI, total expenses, and NOI are each within five percent of the Underwriter's estimates and characterized as acceptable or reasonable in the Report will the Applicant's estimate of NOI be used to determine the acceptable debt service amount. In all other cases the Underwriter's estimates are used.~~ In addition to NOI, the interest rate, term, and Debt Coverage Ratio range affect the determination of the acceptable debt service amount.

(A) Interest Rate. The interest rate used should be the rate documented in the commitment letter. The maximum rate that will be allowed for a competitive application cycle is evaluated by the Director of Credit Underwriting and posted to the Department's web site prior to the close of the application acceptance period. Historically this maximum acceptable rate has been at or below the average rate for 30-year U.S. Treasury Bonds plus 400 basis points.

(B) Term. The primary debt loan term utilized by the Underwriter is the one reflected in the commitment letter. The Department generally requires an amortization of not less than 30 years and not more than 50 years or an adjustment to the amortization structure is evaluated and recommended. In non-Tax Credit transactions a lesser amortization term may be used if the Department's funds are fully amortized over the same period.

(C) Acceptable Debt Coverage Ratio Range. The initial acceptable DCR range for all ~~debt associated with priority or foreclosable lien financing~~ permanent priority liens that are foreclosable as a result of nonpayment of a regularly scheduled amount plus the Department's proposed financing falls between a minimum of 1.10 to a maximum of 1.30. In rare instances, such as for HOPE VI and USDA Rural Development transactions, the minimum DCR may be less than 1.10 based upon documentation of acceptance of such an acceptable DCR from the lender. If the DCR is less than the minimum, a reduction in the debt service amount is recommended based upon the rates and terms in the permanent loan commitment letter as long as they are within the ranges in subparagraphs (A) and (B) of this paragraph. If the DCR is greater than the maximum, an increase in the debt service amount is recommended based upon the rates and terms in the permanent loan commitment letter as long as they are within the ranges in subparagraphs (A) and (B) of this paragraph, and the funding gap is reviewed to determine the continued need for Department financing. When the funding gap is reduced no adjustments are made to the level of Department financing unless there is an excess of financing, after the need for deferral of any developer fee is eliminated. If the increase in debt capacity provides excess sources of funds, the Underwriter adjusts any Department grant funds to a loan, if possible, and/or adjusts the interest rate of any Department loans upward until the DCR does not exceed the maximum or up to the prevailing current market rate for similar conventional funding, whichever occurs first. Where no Department grant or loan exists or the full market interest rate for the Department's loan has been accomplished, the Underwriter increases the conventional debt amount until the DCR is reduced to the maximum allowable. Any adjustments in debt service will become a condition of the Report, however, future changes in income, expenses, rates, and terms could allow additional adjustments to the final debt amount to be acceptable. In a Tax Credit transaction, an

excessive DCR could negatively affect the amount of recommended tax credit, if based upon the Gap Method, more funds are available than are necessary after all deferral of developer fee is reduced to zero.

(7) Long Term Feasibility. The Underwriter will evaluate the long term feasibility of the Development by creating a 30-year operating proforma. A three percent annual growth factor is utilized for income and a four percent annual growth factor is utilized for expenses. The base year projection utilized is the Underwriter's EGI, total expenses, and NOI unless the Applicant's EGI, total expenses, and NOI are each within five percent of the Underwriter's estimates and characterized as acceptable or reasonable in the Report. The DCR should remain above a 1.10 and a continued positive Cash Flow should be projected for the initial 30-year period in order for the Development to be characterized as feasible for the long term. Any Development where the amount of cumulative Cash Flow over the first fifteen years is insufficient to pay the projected amount of deferred developer fee amortized in irregular payments at zero percent interest is characterized as infeasible and will not be recommended for funding unless the Underwriter can determine a plausible alternative feasible financing structure and conditions the recommendation(s) in the Report accordingly.

(e) Development Costs. The Department's estimate of the Development's cost will be based on the Applicant's project cost schedule to the extent that it can be verified to a reasonable degree of certainty with documentation from the Applicant and tools available to the Underwriter. For new construction Developments, the Applicant's total cost estimate will be compared to the Underwriter's total cost estimate and where the difference in cost exceeds five percent of the Underwriter's estimate, the Underwriter shall substitute their own estimate for the Total Housing Development Cost to determine the Equity Gap Method and Eligible Basis Method where applicable. In the case of a rehabilitation Development, the Underwriter may use a lower tolerance level due to the reliance upon the Applicant's authorized Third Party cost assessment. Where the Applicant's costs are inconsistent with documentation provided in the Application, the Underwriter may adjust the Applicant's total cost estimate. The Department will create and utilize a feedback mechanism to communicate and allow for clarification by the Applicant before the Underwriter's total cost estimate is substituted for the Applicant's estimate.

(1) Acquisition Costs. The proposed acquisition price is verified with the fully executed site control document(s) for the entirety of the site.

(A) Excess Land Acquisition. Where more land is being acquired than will be utilized for the site and the remaining acreage is not being utilized as permanent green space, the value ascribed to the proposed Development will be prorated from the total cost reflected in the site control document(s). An appraisal or tax assessment value may be tools that are used in making this determination; however, the Underwriter will not utilize a prorated value greater than the total amount in the site control document(s).

(B) Identity of Interest Acquisitions. Where the seller or any principals of the seller is an Affiliate, Beneficial Owner, or Related Party to the Applicant, Developer, General Contractor, Housing Consultant, or persons receiving any portion of the Contractor or Developer Fees, the sale of the property will be considered to be an Identity of Interest transfer. In all such transactions the Applicant is required to provide the additional documentation identified in clauses (i) through (iv) of this subparagraph to support the transfer price and this information will be used by the Underwriter to make a transfer price determination.

(i) Documentation of the original acquisition cost, such as the settlement statement.

(ii) An appraisal that meets the Department's Appraisal Rules and Guidelines as described in §1.34 of this subchapter. In no instance will the acquisition value utilized by the Underwriter exceed the appraised value.

(iii) A copy of the current tax assessment value for the property.

(iv) Any other reasonably verifiable costs of owning, holding, or improving the property that when added to the value from clause (i) of this subparagraph justifies the Applicant's proposed acquisition amount.

(I) For land-only transactions, documentation of owning, holding or improving costs since the original acquisition date may include: property taxes; interest expense; a calculated return on equity at a rate consistent with the historical returns of similar risks; the cost of any physical improvements made to the property; the cost of rezoning, replatting, or developing the property; or any costs to provide or improve access to the property.

(II) For transactions which include existing buildings that will be rehabilitated or otherwise maintained as part of the property, documentation of owning, holding, or improving costs since the original acquisition date may include capitalized costs of improvements to the property and the cost of

exit taxes not to exceed an amount necessary to allow the sellers to be indifferent to foreclosure or breakeven transfer.

(C) Non-Identity of Interest Acquisition of Buildings for Tax Credit Properties. In order to make a determination of the appropriate building acquisition value, the Applicant will provide and the Underwriter will utilize an appraisal that meets the Department's Appraisal Rules and Guidelines as described in §1.34 of this subchapter. The value of the improvements are the result of the difference between the as-is appraised value less the land value. Where the actual sales price is more than ten percent different than the appraised value, the Underwriter may alternatively prorate the actual sales price based upon the calculated improvement value over the as-is value provided in the appraisal, so long as the improved value utilized by the Underwriter does not exceed the total as-is appraised value of the entire property.

(2) Off-Site Costs. Off-Site costs are Development costs for work done outside of the actual Development site costs of Development up to the site itself such as the cost of roads, water, sewer and other utilities to provide the site with access. All off-site costs must be well documented and certified by a Third Party engineer as presented in the required application form to be included in the Underwriter's cost budget.

(3) Site Work Costs. If Project site work costs exceed \$7,500 per Unit, the Applicant must submit a detailed cost breakdown certified as being prepared by a Third Party engineer or architect, to be included in the Underwriter's cost budget. In addition, for ~~applicant~~Applicants seeking Tax Credits, a letter from a certified public accountant properly allocating which portions of the engineer's or architect's site costs should be included in eligible basis and which ones are ineligible, in keeping with the holding of the Internal Revenue Service Technical Advice Memoranda, is required for such costs to be included in the Underwriter's cost budget.

(4) Direct Construction Costs. Direct construction costs are the costs of materials and labor required for the building or rehabilitation of a Development.

(A) New Construction. The Underwriter will use the "Average Quality" multiple or townhouse costs, as appropriate, from the *Marshall and Swift Residential Cost Handbook*, based upon the details provided in the application and particularly site and building plans and elevations. If the Development contains amenities not included in the Average Quality standard, the Department will take into account the costs of the amenities as designed in the Development. If the Development will contain single-family buildings, then the cost basis should be consistent with single-family Average Quality as defined by Marshall & Swift Residential Cost Handbook. Whenever the Applicant's estimate is more than five percent greater or less than the Underwriter's Marshall and Swift based estimate, the Underwriter will attempt to reconcile this concern and ultimately identify this as a cost concern in the Report.

(B) Rehabilitation Costs. In the case where the Applicant has provided Third Party signed bids with a work write-up from contractors or estimates from certified or licensed professionals which are inconsistent with the Applicant's figures as proposed in the project cost schedule, the Underwriter utilizes the Third Party estimations in lieu of the Applicant's estimates even when the difference between the Underwriter's costs and the Applicant's costs is less than five percent. The underwriting staff will evaluate rehabilitation Developments for comprehensiveness of the Third Party work write-up and will determine if additional information is needed.

(5) Hard Cost Contingency. This is the only contingency figure considered by the Underwriter and is only considered in underwriting prior to final cost certification. Contingency is limited to a maximum of five percent (5%) of direct costs plus site work for new construction Developments and ten percent (10%) of direct costs plus site work for rehabilitation Developments. The Applicant's figure is used by the Underwriter if the figure is less than five percent (5%) or ten percent (10%), respectively.

(6) Contractor Fee Limits. Contractor fees are limited to six percent (6%) for general requirements, two percent (2%) for contractor overhead, and six percent (6%) for contractor profit. These fees are based upon the direct costs plus site work costs. Minor reallocations to make these fees fit within these limits may be made at the discretion of the Underwriter. For Developments also receiving financing from TxRD-USDA, the combination of builder's general requirements, builder's overhead, and builder's profit should not exceed the lower of TDHCA or TxRD-USDA requirements.

(7) Developer Fee Limits. For Tax Credit Developments, the Development cost associated with developer's fees cannot exceed fifteen percent (15%) of the project's Total Eligible Basis, as defined in §§49 and 50 of this title (adjusted for the reduction of federal grants, below market rate loans, historic credits, etc.), not inclusive of the developer fees themselves. The fee can be divided between overhead and

fee as desired but the sum of both items must not exceed the maximum limit. The Developer Fee may be earned on non-eligible basis activities, but only the maximum limit as a percentage of eligible basis items may be included in basis for the purpose of calculating a project's credit amount. Any non-eligible amount of developer fee claimed must be proportionate to the work for which it is earned. For non-Tax Credit Developments, the percentage remains the same but is based upon total Development costs less: the fee itself, land costs, the costs of permanent financing, excessive construction period financing described in paragraph (8) of this subsection, and reserves.

(8) Financing Costs. Eligible construction period financing is limited to not more than one year's worth of fully drawn construction loan funds at the construction loan interest rate indicated in the commitment. Any excess over this amount is removed to ineligible cost and will not be considered in the determination of developer fee.

(9) Reserves. The Department will utilize the terms proposed by the syndicator or lender as described in the commitment letter(s) or the amount described in the Applicant's projected cost schedule if it is within the range of ~~two~~ three to six months of stabilized operating expenses less management fees plus debt service.

(10) Other Soft Costs. For Tax Credit Developments all other soft costs are divided into eligible and ineligible costs. Eligible costs are defined by Internal Revenue Code but generally are costs that can be capitalized in the basis of the Development for tax purposes; whereas ineligible costs are those that tend to fund future operating activities. The Underwriter will evaluate and accept the allocation of these soft costs in accordance with the Department's prevailing interpretation of the Internal Revenue Code. If the Underwriter questions the eligibility of any soft costs, the Applicant is given an opportunity to clarify and address the concern prior to removal ~~form~~ from basis.

(f) Developer Capacity. The Underwriter will evaluate the capacity of the Person(s) accountable for the role of the Developer to determine their ability to secure financing and successfully complete the Development. The Department will review certification of previous participation, financial statements, and personal credit reports for those individuals anticipated to guarantee the completion of the Development.

(1) Previous Experience. The Underwriter will characterize the Development as "high risk" if the Developer has no previous experience in completing construction and reaching ~~stabilized~~ Sustaining Occupancy in a previous Development.

(2) Credit Reports. The Underwriter will characterize the Development as "high risk" if the Developer or principals thereof have a credit score which reflects a 40% or higher potential default rate.

(3) Financial Statements of Principals. The Applicant, Developer, any principals of the Applicant, General Partner, and Developer and any Person who will be required to guarantee the Development will be required to provide a signed and dated financial statement and authorization to release credit information. The financial statement for individuals may be provided on the Personal Financial and Credit Statement form provided by the Department and must not be older than 90 days from the first day of the Application Acceptance Period. If submitting partnership and corporate financials in addition to the individual statements, the certified annual financial statement or audited statement, if available, should be for the most recent fiscal year not more than twelve months from first date of the Application Acceptance Period. This document is required for an entity even if the entity is wholly-owned by a person who has submitted this document as an individual. For entities being formed for the purposes of facilitating the contemplated transaction but who have no meaningful financial statements at the present time, a letter attesting to this condition will suffice.

(A) Financial statements must be provided to the Underwriting Division at least seven days prior to the close of the application acceptance period in order for an acknowledgment of receipt to be provided as a substitute for inclusion of the statements themselves in the application. The Underwriting Division will FAX, e-mail or send via regular mail an acknowledgement for each financial statement received. The acknowledgement will not constitute acceptance by the Department that financial statements provided are acceptable in any manner but only acknowledge their receipt. Where time permits, the acknowledgement may identify the date of the statement and whether it will meet the time constraints under the QAP.

(B) The Underwriter will evaluate and discuss individual financial statements in a confidential portion of the Report. Where the financial statement indicates a limited net worth and/ or lack of significant liquidity and the Development is characterized as a high risk for either of the reasons described in paragraphs (1) and (2) of this subsection, the Underwriter must condition any potential award upon the

identification and inclusion of additional Development partners who can meet the criteria described in this subsection.

(g) Other Underwriting Considerations. The Underwriter will evaluate numerous additional elements as described in subsection (b) of this section and those that require further elaboration are identified in this subsection.

(1) Floodplains. The Underwriter evaluates the site plan ~~and~~ floodplain map, [local engineering studies provided through the Applicant](#), and [other](#) information provided to determine if any of the buildings, drives, or parking areas reside within the 100-year floodplain. If such a determination is made by the Underwriter [and the buildings' finished ground floor are not clearly engineered to be at least one foot above the floodplain and all drives and parking lots are not clearly engineered to be not lower than six inches below the floodplain](#), the Report will include a condition that the Applicant must pursue and receive a Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR-F) or require the Applicant to identify the cost of flood insurance for the buildings and for the tenant's contents for buildings within the 100-year floodplain.

(2) Inclusive Capture Rate. The Underwriter will not recommend the approval of funds to new Developments requesting funds where the anticipated inclusive capture rate is in excess of 25% for the Primary Market unless the market is a rural market or the units are targeted toward the elderly. In rural markets and for Developments that are strictly targeted to the elderly, the Underwriter will not recommend the approval of funds to new housing Developments requesting funds from the Department where the anticipated capture rate is in excess of 100% of the qualified demand. Affordable Housing which replaces previously existing substandard Affordable Housing within the same Submarket on a Unit for Unit basis, and which gives the displaced tenants of the previously existing Affordable Housing a leasing preference, is excepted from these inclusive capture rate restrictions. The inclusive capture rate for the Development is defined as the sum of the proposed units for a given project plus any previously approved but not yet stabilized new Comparable Units in the Submarket divided by the total income-eligible targeted renter demand identified in the Market Analysis for a specific Development's Primary Market. The Department defines Comparable Units, in this instance, as units that are dedicated to the same household type as the proposed subject property using the classifications of family, elderly or transitional as housing types. The Department defines a stabilized project as one that has maintained a 90% occupancy level for at least 12 consecutive months. The Department will independently verify the number of affordable units included in the ~~market study~~[Market Study](#) and will ensure that all projects previously allocated funds through the Department are included in the final analysis. The documentation requirements needed to support decisions relating to this item are identified in §1.33 of this subchapter.

§1.33. Market Analysis Rules and Guidelines.

(a) General Provision. A Market Analysis prepared for the Department must evaluate the need for decent, safe, and sanitary housing at rental rates or sales prices that eligible tenants can afford. The analysis must determine the feasibility of the subject property rental rates or sales price and state conclusions as to the impact of the property with respect to the determined housing needs. Furthermore, the Market Analyst shall certify that they are a Third Party and are not being compensated for the assignment based upon a predetermined outcome.

(b) Self-Contained. A Market Analysis prepared for the Department must contain sufficient data and analysis to allow the reader to understand the market data presented, the analysis of the data, and the conclusion(s) derived from such data and its relationship to the subject property. The complexity of this requirement will vary in direct proportion with the complexity of the real estate and the real estate market being analyzed. The analysis must clearly lead the reader to the same or similar conclusion(s) reached by the Market Analyst.

(c) Market Analyst Qualifications. A Market Analysis submitted to the Department must be prepared and certified by an approved Market Analyst. The Department will maintain an approved [market analyst\[Market Analyst\]\(#\) list based on the guidelines set forth in paragraphs \(1\) through \(3\) of this subsection.](#)

(1) Market analysts must submit subparagraphs (A) through (F) of this paragraph for review by the Department.

(A) A current organization chart or list reflecting all members of the firm who may author or sign the Market Analysis.

(B) General information regarding the firm's experience including references, the number of previous similar assignments and time frames in which previous assignments were completed.

(C) Resumes for all members of the firm who may author or sign the Market Analysis.

(D) Certification from an authorized representative of the firm that the services to be provided will conform to the Department's Market Analysis Rules and Guidelines described in this section.

(E) A sample Market Analysis that conforms to the Department's Market Analysis Rules and Guidelines described in this section.

(F) Documentation of organization and good standing in the State of Texas.

(2) During the underwriting process each Market Analysis will be reviewed and any discrepancies with the rules and guidelines set forth in this section may be identified and require timely correction. Subsequent to the completion of the funding cycle and as time permits, staff and/or a review appraiser will re-review a sample set of submitted market analyses to ensure that the Department's Market Analysis Rules and Guidelines are met. If it is found that a Market Analyst has not conformed to the Department's Market Analysis Rules and Guidelines, as certified to, the Market Analyst will be notified of the discrepancies in the Market Analysis and will be removed from the approved ~~market analyst~~ Market Analyst list.

(A) Removal from the list of approved Market Analysts will not, in and of itself, invalidate a Market Analysis. A Market Analysis, completed by a Market Analyst who is removed from the approved Market Analyst list, may be valid if the Market Analysis was commissioned before the Market Analyst's removal from the list, and this removal occurred less than 90 days before the Department's due date for submission of Market Analyses. For purposes of this paragraph, the effective date of removal from the approved Market Analyst list is the first date in which the Department's web posting no longer reflects the Market Analyst as being an approved Market Analyst. ~~that has already been commissioned not more than 90 days before the Department's due date for submission as of the date the change in status of the Market Analyst is posted to the web.~~

(B) To be reinstated as an approved Market Analyst, the Market Analyst must submit a new sample Market Analysis that conforms to the Department's Market Analysis Rules and Guidelines. This new study will then be reviewed for conformance with the rules of this section and if found to be in compliance, the Market Analyst will be reinstated.

(3) The list of approved Market Analysts is posted on the Department's web site and updated within 72 hours of a change in the status of a Market Analyst.

(d) Market Analysis Contents - Multifamily. A Market Analysis for a ~~multifamily~~ Development prepared for the Department must be organized in a format that follows a logical progression and must include, at minimum, items addressed in paragraphs (1) through (17) of this subsection.

(1) Title Page. Include property address and/or location, housing type, TDHCA addressed as client, effective date of analysis, date of report, name and address of person authorizing report, and name and address of Market Analyst.

(2) Letter of Transmittal. Include date of letter, property address and/or location, description of property type, statement as to purpose of analysis, reference to accompanying Market Analysis, reference to all person(s) providing significant assistance in the preparation of analysis, statement from Market Analyst indicating any and all relationships to any member of the Development team and/or owner of the subject property, date of analysis, effective date of analysis, date of property inspection, name of person(s) inspecting subject property, and signatures of all Market Analysts authorized to work on the assignment.

(3) Table of Contents. Number the exhibits included with the report for easy reference.

(4) Summary Form. Complete and include the TDHCA Primary Market Area Analysis Summary form. An electronic version of the form and instructions are available on the Department's website at <http://www.tdhca.state.tx.us/underwrite.html>.

(5) Assumptions and Limiting Conditions. Include a summary of all assumptions, both general and specific, made by the Market Analyst concerning the property.

(6) Disclosure of Competency. Include the Market Analyst's qualifications, detailing education and experience of all Market Analysts authorized to work on the assignment.

(7) Identification of the Property. Provide a statement to acquaint the reader with the Development. Such information includes street address, tax assessor's parcel number(s), and Development characteristics.

(8) Statement of Ownership for the Subject Property. Disclose the current owners of record and provide a three year history of ownership.

(9) Purpose of the Market Analysis. Provide a brief comment stating the purpose of the analysis.

(10) Scope of the Market Analysis. Address and summarize the sources used in the Market Analysis. Describe the process of collecting, confirming, and reporting the data used in the Market Analysis.

(11) Secondary Market Information. Include a general description of the geographic location and demographic data and analysis of the secondary market area if applicable. The secondary market area will be defined on a case-by-case basis by the Market Analyst engaged to provide the Market Analysis. Additional demand factors and comparable property information from the secondary market may be addressed. However, use of such information in conclusions regarding the subject property must be well-reasoned and documented. A map of the secondary market area with the subject property clearly identified should be provided. In a Market Analysis for a Development targeting families, the demand and supply effects from the secondary market are not significant. For a Development that targets smaller subgroups such as elderly households, the demand and supply effects may be more relevant.

(12) Primary Market Information. Include a specific description of the subject's geographical location, specific demographic data, and an analysis of the Primary Market Area. The Primary Market Area will be defined on a case-by-case basis by the Market Analyst engaged to provide the Market Analysis. The Department encourages a conservative Primary Market Area delineation with use of natural political/geographical boundaries whenever possible. Furthermore, the Primary Market for a Development chosen by the Market Analyst will generally be most informative if it contains no more than 250,000 persons, though a Primary Market with more residents may be indicated by the Market Analyst, where political/geographic boundaries indicate doing so, with additional supportive narrative. A summary of the neighborhood trends, future Development, and economic viability of the specific area must be addressed with particular emphasis given to Affordable Housing. A map of the Primary Market with the subject property clearly identified must be provided. A separate scaled distance map of the Primary Market that clearly identifies the subject and the Local Amenities must also be included.

(13) Comparable Property Analysis. Provide a comprehensive evaluation of the existing supply of comparable properties in the Primary Market Area defined by the Market Analyst. The analysis should include census data documenting the amount and condition of local housing stock as well as information on building permits since the census data was collected. The analysis must separately evaluate existing market rate housing and existing subsidized housing to include local housing authority units and any and all other rent- or income-restricted units with respect to items discussed in subparagraphs (A) through (F) of this paragraph.

(A) Analyze comparable property rental rates. Include a separate attribute adjustment matrix for the most comparable market rate and subsidized units to the units proposed in the subject, a minimum of three Developments each. The Department recommends use of HUD Form 922273. Analysis of the Market Rents must be sufficiently detailed to permit the reader to understand the Market Analyst's logic and rationale. Total adjustments made to the Comparable Units in excess of 15% suggest a weak comparable. Total adjustments in excess of 15% must be supported with additional narrative. The Department also encourages close examination of the overall use of concessions in the Primary Market Area and the effect on effective Market Rents.

(B) Provide an Affordability Analysis of the comparable unrestricted units.

(C) Analyze occupancy rates of each of the comparable properties and occupancy trends by property class. Physical occupancy should be compared to economic occupancy.

(D) Provide annual turnover rates of each of the comparable properties and turnover trends by property class.

(E) Provide absorption rates for each of the comparable properties and absorption trends by property class.

(F) The comparable Developments must indicate current research for the proposed property type. The rental data must be confirmed with the landlord, tenant or agent and individual data sheets must be included. The minimum content of the individual data sheets include: property address, lease terms, occupancy, turnover, Development characteristics, current physical condition of the property, etc. A scaled distance map of the Primary Market that clearly identifies the subject Development and existing comparable market rate Developments and all existing/proposed subsidized Developments must be provided.

(14) Demand Analysis. Provide a comprehensive evaluation of the demand for the proposed housing. The analysis must include an analysis of the need for market rate and Affordable Housing within the subject Development's Primary Market Area using the most current census and demographic data

available. The demand for housing must be quantified, well reasoned, and segmented to include only relevant income- and age-eligible targets of the subject Development. Each demand segment should be addressed independently and overlapping segments should be minimized and clearly identified when required. In instances where more than 20% of the proposed units are comprised of three- and four-bedroom units, the analysis should be refined by factoring in the number of large households to avoid overestimating demand. The final quantified demand calculation may include demand due to items in subparagraphs (A) through (C) of this paragraph.

(A) Quantify new household demand due to documented population and household growth trends for targeted income-eligible renter households OR confirmed targeted income-eligible renter household growth due to new employment growth.

(B) Quantify existing household demand due to documented turnover of existing targeted income-eligible renter households OR documented rent over-burdened targeted income-eligible renter households that would not be rent over-burdened in the proposed Development and documented targeted income-eligible renter households living in substandard housing.

(C) Include other well reasoned and documented sources of demand determined by the Market Analyst.

(15) Conclusions. Include a comprehensive evaluation of the subject property, separately addressing each housing type and specific population to be served by the Development in terms of items in subparagraphs (A) through (F) of this paragraph.

(A) Provide a separate market and ~~subsidized-restricted~~ rental rate conclusion for each proposed unit type and rental restriction category. Conclusions of rental rates below the maximum net rent limit rents must be well reasoned, documented, consistent with the market data, and address any inconsistencies with the conclusions of the demand for the subject units.

(B) Provide rental income, secondary income, and vacancy and collection loss projections for the subject derived independent of the ~~applicant~~Applicant's estimates, but based on historic and/or well established data sources of comparable properties.

(C) Correlate and quantify secondary market and Primary Market demographics of housing demand to the current and proposed supply of housing and the need for each proposed unit type and the subject Development as a whole. The subject Development specific demand calculation may consider total demand from the date of application to the proposed place in service date.

(D) Calculate an inclusive capture rate for the subject Development defined as the sum of the proposed subject units plus any comparable units in previously approved new, but unstabilized ~~Developments~~new Comparable Units in the Primary Market, divided by the total income-eligible targeted renter demand identified by the Market Analysis for the subject Development's Primary Market Area. The Market Analyst should calculate a separate inclusive capture rate for the subject Development's proposed affordable units, ~~and~~ market rate units, ~~and as well as~~ the subject Development as a whole.

(E) Project an absorption period and rate for the subject until a Sustaining Occupancy level has been achieved. If absorption projections for the subject differ significantly from historic data, an explanation of such should be included.

(F) Analyze the effects of the subject Development on the Primary Market occupancy rates and provide sufficient support documentation.

(16) Photographs. Include good quality color photographs of the subject property (front, rear and side elevations, on-site amenities, interior of typical units if available). Photographs should be properly labeled. Photographs of the neighborhood, street scenes, and comparables should also be included. An aerial photograph is desirable but not mandatory.

(17) Appendices. Any Third Party reports relied upon by the Market Analyst must be provided in appendix form and verified directly by the Market Analyst as to its validity.

(e) Market Analysis Contents - Single Family~~Developments~~.

(1) Market studies for single-family Developments proposed as rental Developments must contain the elements set forth in subsections (d)(1) through (17) of this section. Market analyses for Developments proposed for single-family home ownership must contain the elements set forth in subsections (d)(1) through (17) of this section as they would apply to home ownership in addition to paragraphs (2) through (4) of this subsection.

(2) Include no less than three actual market transactions to inform the reader of current market conditions for the sale of each unit type in the price range contemplated for homes in the proposed Development. The comparables must rely on current research for this specific property type. The sales

prices must be confirmed with the buyer, seller, or real estate agent and individual data sheets must be included. The minimum content of the individual data sheets should include property address, Development characteristics, purchase price and terms, description of any federal, state, or local affordability subsidy associated with the transaction, date of sale, and length of time on the market.

(3) Analysis of the comparable sales should be sufficiently detailed to permit the reader to understand the Market Analyst's logic and rationale. The evaluation should address the appropriateness of the living area, room count, market demand for Affordable Housing, targeted sales price range, demand for interior and/or exterior amenities, etc. A scaled distance map of the Primary Market that clearly identifies the subject Development and existing comparable single family homes must be provided.

(4) A written statement is required stating if the projected sales prices for homes in the proposed Development are, or are not, below the range for comparable homes within the Primary Market Area. Sufficient documentation should be included to support the Market Analyst's conclusion with regard to the Development's absorption.

(f) The Department reserves the right to require the Market Analyst to address such other issues as may be relevant to the Department's evaluation of the need for the subject property and the provisions of the particular program guidelines.

(g) All ~~applicant~~ Applicants shall acknowledge, by virtue of filing an application, that the Department shall not be bound by any such opinion or Market Analysis, and may substitute its own analysis and underwriting conclusions for those submitted by the Market Analyst

§1.34. Appraisal Rules and Guidelines.

(a) General Provisions. Appraisals prepared for the Department must conform to the Uniform Standards of Professional Appraisal Practice (USPAP) as adopted by the Appraisal Standards Board of the Appraisal Foundation. Self-contained reports must describe sufficient and adequate data and analyses to support the final opinion of value. The final value(s) must be reasonable, based on the information included. Any Third Party reports relied upon by the appraiser must be verified by the appraiser as to the validity of the data and the conclusions. The report must contain sufficient data, included in the appendix when possible, and analysis to allow the reader to understand the property being appraised, the market data presented, analysis of the data, and the appraiser's value conclusion. The complexity of this requirement will vary in direct proportion with the complexity of the real estate and real estate interest being appraised. The report should lead the reader to the same or similar conclusion(s) reached by the appraiser.

(b) Value Estimates. All appraisals shall contain a separate estimate of land value, based upon sales comparables. Appraisal assignments for new construction, which are required to provide a future value of to be completed structures, shall provide an "as restricted with favorable financing" value as well as an "unrestricted market" value. Properties to be rehabilitated shall address the "as restricted with favorable financing" value as well as both an "as is" value and an "as completed" value. Include a separate assessment of personal property, furniture, fixtures, and equipment (FF&E) and/or intangible items because their economic life may be shorter than the real estate improvements and may require different lending or underwriting considerations. If personal property, FF&E, or intangible items are not part of the transaction or value estimate, a statement to such effect should be included.

(c) Date of Appraisal. The appraisal report must be dated and signed by the appraiser who inspected the property. The date of the valuation, except in the case of proposed construction or extensive rehabilitation, must be a current date. The date of valuation should not be more than six months prior to the date of the application to the Department.

(d) Appraiser Qualifications. The qualifications of each appraiser are determined and approved on a case-by-case basis by the Director of Credit Underwriting and/or review appraiser, based upon the quality of the report itself and the experience and educational background of the appraiser, as set forth in the Statement of Qualifications appended to the appraisal. At minimum, a qualified appraiser will be certified or licensed by the Texas Appraiser Licensing and Certification Board.

(e) Appraisal Contents. An appraisal of a Development prepared for the Department must be organized in a format that follows a logical progression and must include, at minimum, items addressed in paragraphs (1) through (18) of this subsection.

(1) Title Page. Include identification as to appraisal (e.g., type of process - complete or limited, type of report - self-contained, summary or restricted), property address and/or location, housing type, the

Department addressed as the client, effective date of value estimate(s), date of report, name and address of person authorizing report, and name and address of appraiser(s).

(2) Letter of Transmittal. Include date of letter, property address and/or location, description of property type, extraordinary/special assumptions or limiting conditions that were approved by person authorizing the assignment, statement as to function of the report, statement of property interest being appraised, statement as to appraisal process (complete or limited), statement as to reporting option (self-contained, summary or restricted), reference to accompanying appraisal report, reference to all person(s) that provided significant assistance in the preparation of the report, date of report, effective date of appraisal, date of property inspection, name of person(s) inspecting the property, identification of type(s) of value(s) estimated (e.g., market value, leased fee value, as-financed value, etc.), estimate of marketing period, signatures of all appraisers authorized to work on the assignment.

(3) Table of Contents. Number the exhibits included with the report for easy reference.

(4) Assumptions and Limiting Conditions. Include a summary of all assumptions, both general and specific, made by the appraiser(s) concerning the property being appraised. Statements may be similar to those recommended by the Appraisal Institute.

(5) Certificate of Value. This section may be combined with the letter of transmittal and/or final value estimate. Include statements similar to those contained in Standard Rule 2-3 of USPAP.

(6) Disclosure of Competency. Include appraiser's qualifications, detailing education and experience, as discussed in subsection (c) of this section.

(7) Identification of the Property. Provide a statement to acquaint the reader with the property. Real estate being appraised must be fully identified and described by street address, tax assessor's parcel number(s), and Development characteristics. Include a full, complete, legible, and concise legal description.

(8) Statement of Ownership of the Subject Property. Discuss all prior sales of the subject property which occurred within the past three years. Any pending agreements of sale, options to buy, or listing of the subject property must be disclosed in the appraisal report.

(9) Purpose and Function of the Appraisal. Provide a brief comment stating the purpose of the appraisal and a statement citing the function of the report.

(A) Property Rights Appraised. Include a statement as to the property rights (e.g., fee simple interest, leased fee interest, leasehold, etc.) being considered. The appropriate interest must be defined in terms of current appraisal terminology with the source cited.

(B) Definition of Value Premise. One or more types of value (e.g., "as is", "as if", "prospective market value") may be required. Definitions corresponding to the appropriate value must be included with the source cited.

(10) Scope of the Appraisal. Address and summarize the methods and sources used in the valuation process. Describes the process of collecting, confirming, and reporting the data used in the assignment.

(11) Regional Area Data. Provide a general description of the geographic location and demographic data and analysis of the regional area. A map of the regional area with the subject identified is requested, but not required.

(12) Neighborhood Data. Provide a specific description of the subject's geographical location and specific demographic data and an analysis of the neighborhood. A summary of the neighborhood trends, future Development, and economic viability of the specific area should be addressed. A map with the neighborhood boundaries and the subject identified must be included.

(13) Site/Improvement Description. Discuss the site characteristics including subparagraphs (A) through (F) of this paragraph.

(A) Physical Site Characteristics. Describe dimensions, size (square footage, acreage, etc.), shape, topography, corner influence, frontage, access, ingress-egress, etc. associated with the site. Include a plat map and/or survey.

(B) Floodplain. Discuss floodplain (including flood map panel number) and include a floodplain map with the subject clearly identified.

(C) Zoning. Report the current zoning and description of the zoning restrictions and/or deed restrictions, where applicable, and type of Development permitted. Any probability of change in zoning should be discussed. A statement as to whether or not the improvements conform to the current zoning should be included. A statement addressing whether or not the improvements could be rebuilt if damaged or destroyed, should be included. If current zoning is not consistent with the Highest and Best Use, and

zoning changes are reasonable to expect, time and expense associated with the proposed zoning change should be considered and documented. A zoning map should be included.

(D) Description of Improvements. Provide a thorough description and analysis of the improvements including size (net rentable area, gross building area, etc.), number of stories, number of buildings, type/quality of construction, condition, actual age, effective age, exterior and interior amenities, items of deferred maintenance, etc. All applicable forms of depreciation should be addressed along with the remaining economic life.

(E) Fair Housing. It is recognized appraisers are not an expert in such matters and the impact of such deficiencies may not be quantified; however, the report should disclose any potential violations of the Fair Housing Act of 1988, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990 and/or report any accommodations (e.g., wheelchair ramps, handicap parking spaces, etc.) which have been performed to the property or may need to be performed.

(F) Environmental Hazards. It is recognized appraisers are not an expert in such matters and the impact of such deficiencies may not be quantified; however, the report should disclose any potential environmental hazards (e.g., discolored vegetation, oil residue, asbestos-containing materials, lead-based paint etc.) noted during the inspection.

(14) Highest and Best Use. Market Analysis and feasibility study is required as part of the highest and best use. The highest and best use analysis should consider subsection (d)(13)(A) through (F) of this section as well as a supply and demand analysis.

(A) The appraisal must inform the reader of any positive or negative market trends which could influence the value of the appraised property. Detailed data must be included to support the appraiser's estimate of stabilized income, absorption, and occupancy.

(B) The highest and best use section must contain a separate analysis "as if vacant" and "as improved" (or "as proposed to be improved/renovated"). All four elements in appropriate order as outlined in the Appraisal of Real Estate (legally permissible, physically possible, feasible, and maximally productive) must be sequentially considered.

(15) Appraisal Process. The Cost Approach, Sales Comparison Approach and Income Approach are three recognized appraisal approaches to valuing most properties. It is mandatory that all three approaches are considered in valuing the property unless specifically instructed by the Department to ignore one or more of the approaches; or unless reasonable appraisers would agree that use of an approach is not applicable. If an approach is not applicable to a particular property, then omission of such approach must be fully and adequately explained.

(A) Cost Approach. This approach should give a clear and concise estimate of the cost to construct the subject improvements. The type of cost (reproduction or replacement) and source(s) of the cost data should be reported.

(i) Cost comparables are desirable; however, alternative cost information may be obtained from Marshall & Swift Valuation Service or similar publications. The section, class, page, etc. should be referenced. All soft costs and entrepreneurial profit must be addressed and documented.

(ii) All applicable forms of depreciation must be discussed and analyzed. Such discussion must be consistent with the description of the improvements analysis.

(iii) The land value estimate should include a sufficient number of sales which are current, comparable, and similar to the subject in terms of highest and best use. Comparable sales information should include address, legal description, tax assessor's parcel number(s), sales price, date of sale, grantor, grantee, three year sales history, and adequate description of property transferred. The final value estimate should fall within the adjusted and unadjusted value ranges. Consideration and appropriate cash equivalent adjustments to the comparable sales price for subclauses (I) through (VII) of this clause should be made when applicable.

(I) Property rights conveyed.

(II) Financing terms.

(III) Conditions of sale.

(IV) Location.

(V) Highest and best use.

(VI) Physical characteristics (e.g., topography, size, shape, etc.).

(VII) Other characteristics (e.g., existing/proposed entitlements, special assessments, etc.).

(B) Sales Comparison Approach. This section should contain an adequate number of sales to provide the reader with the current market conditions concerning this property type. Sales data should be recent and specific for the property type being appraised. The sales must be confirmed with buyer, seller, or an individual knowledgeable of the transaction.

(i) Minimum content of the sales should include address, legal description, tax assessor's parcel number(s), sale price, financing considerations, and adjustment for cash equivalency, date of sale, recordation of the instrument, parties to the transaction, three year sale history, complete description of the property and property rights conveyed, and discussion of marketing time. A scaled distance map clearly identifying the subject and the comparable sales must be included.

(ii) Several methods may be utilized in the Sale Comparison Approach. The method(s) used must be reflective of actual market activity and market participants.

(I) Sale Price/Unit of Comparison. The analysis of the sale comparables must identify, relate and evaluate the individual adjustments applicable for property rights, terms of sale, conditions of sale, market conditions and physical features. Sufficient narrative analysis must be included to permit the reader to understand the direction and magnitude of the individual adjustments, as well as a unit of comparison value indicator for each comparable. The appraiser(s) reasoning and thought process must be explained.

(II) Potential Gross Income/Effective Gross Income Analysis. If used in the report, this method of analysis must clearly indicate the income statistics for the comparables. Consistency in the method for which such economically statistical data was derived should be applied throughout the analysis. At least one other method should accompany this method of analysis.

(III) NOI/Unit of Comparison. If used in the report, the net income statistics for the comparables ~~for~~ must be calculated in the same manner and disclosed as such. It should be disclosed if reserves for replacement have been included in this method of analysis. At least one other method should accompany this method of analysis.

(C) Income Approach. This section is to contain an analysis of both the actual historical and projected income and expense aspects of the subject property.

(i) Market Rent Estimate/Comparable Rental Analysis. This section of the report should include an adequate number of actual market transactions to inform the reader of current market conditions concerning rental units. The comparables must indicate current research for this specific property type. The rental comparables must be confirmed with the landlord, tenant or agent and individual data sheets must be included. The minimum content of the individual data sheets should include property address, lease terms, description of the property (e.g., unit type, unit size, unit mix, interior amenities, exterior amenities, etc.), physical characteristics of the property, and location of the comparables. Analysis of the Market Rents should be sufficiently detailed to permit the reader to understand the appraiser's logic and rationale. Adjustment for lease rights, condition of the lease, location, physical characteristics of the property, etc. must be considered.

(ii) Comparison of Market Rent to Contract Rent. Actual income for the subject along with the owner's current budget projections must be reported, summarized and analyzed. If such data is unavailable, a statement to this effect is required and appropriate assumptions and limiting conditions should be made. The contract rents should be compared to the market-derived rents. A determination should be made as to whether the contract rents are below, equal to, or in excess of market rates. If there is a difference, its impact on value must be qualified.

(iii) Vacancy/Collection Loss. Historical occupancy data for the subject should be reported and compared to occupancy data from the rental comparable and overall occupancy data for the subject's ~~market area~~ [Primary Market](#).

(iv) Expense Analysis. Actual expenses for the subject, along with the owner's projected budget, must be reported, summarized, and analyzed. If such data is unavailable, a statement to this effect is required and appropriate assumptions and limiting conditions should be made. Historical expenses should be compared to comparables expenses of similar property types or published survey data (e.g., IREM, BOMA, etc.). Any expense differences should be reconciled. Historical data regarding the subject's assessment and tax rates should be included. A statement as to whether or not any delinquent taxes exist should be included.

(v) Capitalization. Several capitalization methods may be utilized in the Income Approach. The appraiser should present the method(s) reflective of the subject market and explain the omission of any method not considered in the report.

(I) Direct Capitalization. The primary method of deriving an overall rate (OAR) is through market extraction. If a band of investment or mortgage equity technique is utilized, the assumptions must be fully disclosed and discussed.

(II) Yield Capitalization (Discounted Cash Flow Analysis). This method of analysis should include a detailed and supportive discussion of the projected holding/investment period, income and income growth projections, occupancy projections, expense and expense growth projections, reversionary value and support for the discount rate.

(16) Reconciliation and Final Value Estimate. This section of the report should summarize the approaches and values that were utilized in the appraisal. An explanation should be included for any approach which was not included. Such explanations should lead the reader to the same or similar conclusion of value. Although the values for each approach may not "agree", the differences in values should be analyzed and discussed. Other values or interests appraised should be clearly labeled and segregated. Such values may include FF&E, leasehold interest, excess land, etc. In addition, rent restrictions, subsidies and incentives should be explained in the appraisal report and their impact, if any, needs to be reported in conformity with the Comment section of USPAP Standards Rule 1-2(e), which states, "Separation of such items is required when they are significant to the overall value." In the appraisal of subsidized housing, value conclusions that include the intangibles arising from the programs will also have to be analyzed under a scenario without the intangibles in order to measure their influence on value.

(17) Marketing Period. Given property characteristics and current market conditions, the appraiser(s) should employ a reasonable marketing period. The report should detail existing market conditions and assumptions considered relevant.

(18) Photographs. Provide good quality color photographs of the subject property (front, rear, and side elevations, on-site amenities, interior of typical units if available). Photographs should be properly labeled. Photographs of the neighborhood, street scenes, and comparables should be included. An aerial photograph is desirable but not mandatory.

(f) Additional Appraisal Concerns. The appraiser(s) must recognize and be aware of the particular TDHCA program rules and guidelines and their relationship to the subject's value. Due to the various programs offered by the Department, various conditions may be placed on the subject which would impact value. Furthermore, each program may require that the appraiser apply a different set of specific definitions for the conclusions of value to be provided. Consequently, as a result of such criteria, the appraiser(s) should be aware of such conditions and definitions and clearly identify them in the report.

§1.35. Environmental Site Assessment Rules and Guidelines

(a) Environmental Site Assessment Guidelines. The environmental assessment required under Section 50.7(e) of this title should be conducted and reported in conformity with the standards of the American Society for Testing and Materials (ASTM) and such other recognized industry standards as a reasonable person would deem relevant in view of the Property's anticipated use for human habitation. The environmental assessment shall be conducted by an environmental or professional engineer and be prepared at the expense of the Development Owner.

(1) The report must include, but is not limited to:

(A) A review of records, interviews with people knowledgeable about the property;

(B) A certification that the environmental engineer has conducted an inspection of the property, the building(s), and adjoining properties, as well as any other industry standards concerning the preparation of this type of environmental assessment;

~~(C) A noise study is recommended for property located adjacent to or in close proximity to industrial zones, major highways, active rail lines, and civil and military airfields;~~

~~(D)~~ A copy of a current survey, ~~if available,~~ or other drawing of the site reflecting the boundaries and adjacent streets, all improvements on the site, and any items of concern described in the body of the environmental site assessment or identified during the physical inspection;

~~(E)~~ A copy of the current FEMA Flood Insurance Rate Map showing the panel number and encompassing the site with the site boundaries precisely identified and superimposed on the map. A determination of the flood risk for the proposed Development described in the narrative of the report includes a discussion of the impact of the 100-year floodplain on the proposed Development based upon a review of the current site plan; and

~~(FE) The report should include a~~ statement that clearly states that the person or company preparing the environmental assessment will not materially benefit from the Development in any other way than receiving a fee for the environmental assessment; ~~and.~~

(2) A noise study is recommended for property located adjacent to or in close proximity to industrial zones, major highways, active rail lines, and civil and military airfields.

~~(23)~~ If the report recommends further studies or establishes that environmental hazards currently exist on the Property, or are originating off-site but would nonetheless affect the Property, the Development Owner must act on such a recommendation or provide a plan for either the abatement or elimination of the hazard. Evidence of action or a plan for the abatement or elimination of the hazard must be presented upon Application submittal.

~~(34)~~ For Developments which have had a Phase II Environmental Assessment performed and hazards identified, the Development Owner is required to maintain a copy of said assessment on site available for review by all persons which either occupy the Development or are applying for tenancy.

~~(45)~~ Developments whose funds have been obligated by TxRD will not be required to supply this information; however, the Development Owners of such Developments are hereby notified that it is their responsibility to ensure that the Development is maintained in compliance with all state and federal environmental hazard requirements.

~~(56)~~ Those Developments which have or are to receive first lien financing from HUD may submit HUD's environmental assessment report, provided that it conforms with the requirements of this subsection.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

MEMORANDUM

TO: TDHCA Board Members
FROM: Brooke Boston, LIHTC Co-Manager
THROUGH: Edwina Carrington, Executive Director
SUBJECT: 2003 LIHTC QAP – Responses to Public Comments
DATE: November 7, 2002

On September 27, 2002, the proposed 2003 Low Income Housing Tax Credit Program Qualified Allocation Plan and Rules (QAP) was published in the Texas Register. The comment period commenced on September 27, 2002, and ended on October 25, 2002. In addition to publishing the document in the Texas Register, a copy of the QAP was published on the Department’s web site and made available to the public upon request. The Department held ten public hearings across the state to gather feedback on the draft QAP. The public was genuinely pleased with the draft QAP and with the Department’s efforts.

The Department received the majority of comments in writing by email, fax and mail. This memorandum provides the Department’s response to all comments received. The comments and responses are divided into the following three sections.

- I. Substantive comments on the QAP and Departmental response. (Comments and responses are presented in the order they appear in the QAP).
II. Non-substantive changes to the QAP.
III. General tax credit comments not related specifically to the QAP and Departmental response.

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I. SUBSTANTIVE COMMENTS ON THE QAP AND DEPARTMENTAL RESPONSE

§49.1(b) – Program Statement

Comment: Comment was received that the QAP should more clearly emphasize in its program statement that TDHCA intends to have its housing be accessible.

Department Response: Staff concurs with this recommendation.

“(b) Program Statement. The Department shall administer the program to encourage the development and preservation of appropriate types of rental housing for households that have difficulty finding suitable, accessible, affordable rental housing in the private marketplace; maximize the number of suitable, accessible, affordable residential rental units added to the state’s housing supply; prevent losses for any reason to the state’s supply of suitable, accessible, affordable residential rental units by enabling the rehabilitation of rental housing or by providing other preventive financial support; and provide for the participation of for-profit organizations and provide for and encourage the participation of nonprofit organizations in the acquisition, development and operation of accessible affordable housing developments in rural and urban communities.”

§49.2 – Coordination with Rural Agencies

Comment: One comment requested a revision showing that the Office of Rural Community Affairs (ORCA) has the approval authority over the criteria applied to the applications eligible for the rural set-aside because all aspects of the rural set-aside should be put under the direction of ORCA.

Department Response: The Department and ORCA are in the process of executing a Memorandum of Understanding that will identify the role of ORCA in the administration of the rural set-aside. That document is independent of the Qualified Allocation Plan but will address the involvement of ORCA in the allocation process. No change is recommended.

§49.3 – Proposed Definition for Adaptive Reuse

Comment: Comment was received opposing the removal of the definition for Adaptive Reuse from the 2002 QAP and also suggesting that the 2002 definition that referred to hotels or dormitories be expanded to include the conversion of any building not previously used for permanent residential purposes. It was also suggested that in the definition the QAP specify that Adaptive Reuse developments qualify as rehabilitation.

Department Response: The QAP was clarified so that no definitions existed that were not used elsewhere in the document. At this time, the term “Adaptive Reuse” is not used elsewhere in the QAP, nor is it proposed in any revision. No changes are proposed.

§49.3 – Proposed Definition for Developer

Comment: Comment recommended that the QAP add a definition for "Developer" because the entity filling that role is an important part of the analysis of the Application. Throughout the QAP, the Department refers to "any entity receiving a portion of the developer fee". This could be clarified with a broad definition of Developer.

Department Response: Staff concurs that the definition is needed and will simplify terminology throughout the QAP. Note that in addition to the language change below the word "Developer" has been integrated throughout the QAP.

"Developer - "Any Person entering into a contract with the Development Owner to provide development services with respect to the Development and receiving a fee for such services (which fee cannot exceed 15% of the Eligible Basis) and any other Person receiving any portion of such fee, whether by subcontract or otherwise."

§49.3(1) – Definition of Administrative Deficiency

Comment: Extensive comment supports the 2003 QAP definition as drafted - the short cure period time enhances program efficiency. Two comments suggested that the 3 day non-penalty period should be extended to 5 days and that 10 days should be given before termination of the application because the current language may pose a hardship in the event of illness or vacation, and may cause a problem if the issue needing resolution is complex. One comment suggested that a qualified third party should be given the responsibility to review all applications to determine whether any administrative deficiency exists, as well as whether they have been remedied.

Department Response: The current method for processing deficiencies has been a success for the past two years – the timing gives applicants an opportunity to "cure" administrative oversights but still allows the staff to efficiently proceed with evaluating applications. Staff has the proper level of expertise, and training, to objectively review applications for administrative deficiencies and determine if those deficiencies have been adequately satisfied. No changes are proposed.

§49.3(2), 49.3(14), 49.3(6) and 49.3(69) – Definitions of Affiliate, Beneficial Owner, Applicant, and Related Party

Comment: The Department uses various terms to refer to the individuals or entities that are involved in the ownership structure or control of a particular organization. The defined terms "Affiliate", "Beneficial Owner", and "Related Party" are used in different contexts throughout the QAP. In addition, the Department often uses the term "principal", which is not defined at all. The use of a variety of terms can be confusing, especially in transactions like these that have complex organizational structures. The "Related Party" definition is particularly cumbersome and unnecessary. Using a variety of terms may mean that the Department does not receive consistent information across the various sections of the Application. Ultimately, in any case where the terms "Affiliate", "Beneficial Owner", "Related Party", or "principal" are used, the Department is trying to get to one goal: the identification of the parties involved in the ownership or control of a particular enterprise. A simple definition of "Affiliate", properly drafted, should work in virtually every circumstance. This could eliminate confusion and the possibility that certain information could slip through the cracks because of the use of multiple defined terms.

Department Response: The Department concurs with the evaluation made regarding these terms. However, because of the substantive revisions required to promulgate these changes, staff suggests establishing a working group to thoroughly research these terms and make recommendations for simplification and improvement for the 2004 QAP. The term Related Party is currently defined in Section 2306 of Texas Government Code and must be retained in the QAP. However, the Uniform Application had already defined the term Principal and staff recommends implementing that definition into the QAP. No other changes are proposed.

“(60) Principal - the term Principal is defined as Persons that will have an ownership interest in, or that will exercise Control over, a partnership, corporation, limited liability company, trust, or any other public or private entity and their Affiliates that will have an ownership interest in, or that will exercise Control over, the Applicant. In the case of:

(A) partnerships, Principals include all General Partners regardless of their percentage interest;

(B) corporations, Principals include the president, vice president, secretary, treasurer and all other executive officers who are directly responsible to the board of directors or any equivalent governing body as well as all directors and each stock holder having a ten percent or more interest in the corporation; and

(C) limited liability companies, Principals include all members, regardless of their percentage interest.”

§49.3(5)(A) – Definition of Applicable Percentage

Comment: The clause relating to the “current applicable percentage” should clarify by properly identifying the month.

Department Response: Staff concurs that clarification is needed.

“(5) Applicable Percentage - The percentage used to determine the amount of the low income housing tax credit, as defined more fully in the Code, §42(b). For purposes of the Application, the Applicable Percentage will be projected at 10 basis points above the greater of:

(A) the current applicable percentage for the month in which the Application is submitted to the Department, or

(B) the trailing 1-year, 2-year or 3-year average rate in effect during the month in which the Application is submitted to the Department.”

§49.3(6) – Definition of Applicant

Comment: Comment suggested including the term ‘Beneficial Owner’ in the definition for Applicant to help tighten up the \$1.6 million per applicant credit cap.

Department Response: As stated above, the Department concurs that the definitions for Applicant and Beneficial Owner warrant revision. However, because of the substantive revisions required to promulgate these changes, staff suggests establishing a working group to thoroughly research these terms and make recommendations for simplification and improvement for the 2004 QAP. No changes are proposed.

§49.3(12)(B)(i) and (ii) – Definition of At-Risk Development

Comment: There was wide support for having added Section 42 properties to the definition. It was also pointed out that “within two calendar years” needs to be clearer so that applicants and staff can calculate if the two-year requirement is met. Currently it is unclear from what date the two years is measured.

Department Response: Staff concurs that clarification is needed regarding the two year term.

“(B) is subject to the following conditions:

(i) the stipulation to maintain affordability in the contract granting the subsidy is nearing expiration (expiration will occur within two calendar years of July 31 of the year the application is submitted); or

(ii) the federally insured mortgage on the Development is eligible for prepayment or is nearing the end of its mortgage term (the term will end within two calendar years of July 31 of the year the application is submitted).”

§49.3(13) – Definition of Bedroom

Comment: The definition for bedroom should have the following language added: “In an adaptive reuse development that proposes a loft style open floor plan, the number of bedrooms shall be determined by the square footage listed as the minimum unit size listed in 49.9(f)(4)(A) provided that the unit has windows that open and provides for storage comparable to the described closet somewhere in the Unit.”

Department Response: The Department concurs that the definition for Bedroom may need to be “modernized.” However, staff feels that more extensive research is required to identify the implications of

changes and consider the approach that other states are taking on this issue with the intention of making a recommendation for the 2004 QAP. No changes are proposed.

§49.3(27) – Definition of Determination Notice

Comment: Comment proposed clarification in the definition of Determination Notice.

Department Response: Staff concurs with clarification.

“(27) Determination Notice - A notice issued by the Department to the Owner of a Tax Exempt Bond Development which states that the Development may be eligible to claim low income housing tax credits without receiving an allocation of credits from the State Housing Credit Ceiling because it satisfies the requirements of this QAP; sets forth conditions which must be met by the Development before the Department will issue the IRS Form(s) 8609 to the Development Owner; and specifies the Department’s determination as to the amount of tax credits necessary for the financial feasibility of the Development and its viability as a qualified low income housing Development throughout the Credit Period.”

§49.3(29) – Definition of Development

Comment: Comment was received that if the mixed income points are added back into the QAP, then the definition for development should be revised to allow scattered site developments to have a proportionate amount of market rate units.

Department Response: Section 42(g)(7) of the Internal Revenue Code states that for scattered site developments to be treated as one development all of the units in the building must be rent restricted. No changes are proposed.

§49.3(31) – Definition of Development Owner

Comment: Comment was received for §49.5(b) relating to the clauses used in defining ineligible parties. The use of multiple terms (principals, Affiliates) to try to capture all parties involved in the ownership or control of an enterprise can be confusing. Language was proposed, as seen at the memorandum reference for §49.5(b), that simplified the utilization of terms.

Department Response: Staff concurred with the proposed language for §49.5(b), but wanted to ensure that the General Partner was still included. Therefore, to be comprehensive, staff recommends adding the term General Partner into the definition for Development Owner.

“**Development Owner** - Any Person, General Partner, or Affiliate of a Person who owns or proposes a Development or expects to acquire control of a Development under a purchase contract approved by the Department.”

§49.3(32) – Definition of Development Team

Comment: Comment suggested that to help tighten up the \$1.6 million per applicant credit cap the word “material” should be deleted in the definition and the definition expanded to include persons who act as guarantors for a fee. Comment suggested that the phrase relating to the consultant should be replaced with “Development Consultant” for consistency with existing definitions.

Department Response: Staff concurs with both recommended changes.

“(31) Development Team - All Persons or Affiliates thereof which play(s) a ~~material~~ role in the development, construction, rehabilitation, management and/or continuing operation of the subject Property, which will include any Development Consultant and anyone who provides, or is anticipated to provide, a guarantee to secure equity or financing for the transaction for a fee.” ~~consultant(s) hired by the Applicant for the purpose of the filing of an Application for low income housing tax credits with the Department.~~”

§49.3(33) – Definition of Economically Distressed Area

Comment: Clarification was requested as to which agency board is being referenced in the definition.

Department Response: Clarification is provided, as the definition refers to the Texas Water Development Board.

“(32) Economically Distressed Area - Consistent with §17.921 of Texas Water Code, an area in which:

(A) water supply or sewer services are inadequate to meet minimal needs of residential users as defined by board rules;

(B) financial resources are inadequate to provide water supply or sewer services that will satisfy those needs; and

(C) an established residential subdivision was located on June 1, 1989, as determined by the Texas Water Development Board. board.”

§49.3(39) – Definition of General Partner

Comment: Comment suggested that the definition be revised. At law, a general partner has general liability for the partnership throughout a partnership’s life, not just during the construction and lease-up phases. This provides a more accurate definition and identifies the entity or entities serving as general partner at any given time in the Development Owner’s life.

Department Response: Staff concurs with the proposed revision.

“(38) General Partner - ~~The~~ That partner, or collective of partners, which is identified as the general partner of the partnership that is the Development Owner and has general liability for the partnership during the construction and lease-up period. In addition, unless the context shall clearly indicate to the contrary, if the entity in question is a limited liability company, the term “General Partner” shall also mean the managing member or other party with management responsibility for the limited liability company.”

§49.3(40) – Definition of General Pool

Comment: Clarification was requested for the last clause in the definition referring to how the general pool credits will be used for the nonprofit set-aside.

Department Response: The Board will determine at the time that General Pool credits are available, how they will be applied to the waiting list they have approved which accounts for set-asides. Therefore, the clause has been truncated to avoid confusion regarding set-asides.

“(39) General Pool - The pool of credits that have been returned or recovered from prior years’ allocations or the current year’s Commitment Notices after the Board has made its initial commitment of the current year’s available credit ceiling. General pool credits will be used to fund Applications on the waiting list. ~~without regard to set-aside except for the 10% Nonprofit Set-Aside allocation required under §42(h)(5) of the Code.~~”

§49.3(44) – Definition of Housing Credit Agency

Comment: One comment proposed amending the definition to show that ORCA maintains responsibility over the rural set-aside and that TDHCAs authority over that portion of the credit program is secondary to ORCAs.

Department Response: While the IRS permits more than one allocating agency, TDHCA does not have the authority to designate those entities. The Governor of the State of Texas would need to designate ORCA as an allocating agency. Therefore, neither TDHCA nor the QAP can “give” away its authority to allocate all of the credits for the state of Texas. The Department and ORCA are in the process of executing a Memorandum of Understanding that will identify the role of ORCA in the administration of the rural set-aside. That document is independent of the Qualified Allocation Plan but will address the involvement of ORCA in the allocation process. No changes are proposed.

§49.3(46) – Definition of Housing Credit Allocation

Comment: One comment proposed amending the definition to show that ORCA maintains responsibility for determining the allocation amount necessary for financial feasibility of developments in the rural set-aside.

Department Response: While the IRS permits more than one allocating agency, TDHCA does not have the authority to designate those entities. The Governor of the State of Texas would need to designate ORCA as an allocating agency. Therefore, neither TDHCA nor the QAP can “give” away its authority to allocate all of the

credits for the state of Texas. The Department and ORCA are in the process of executing a Memorandum of Understanding that will identify the role of ORCA in the administration of the rural set-aside. That document is independent of the Qualified Allocation Plan but will address the involvement of ORCA in the allocation process.

§49.3(49) – Definition of Ineligible Building Types

Comment: Extensive opposition was voiced against the restriction on 4-bedroom units. While they may not work everywhere there are some communities where the tenant populations and demographics make them an important amenity. Likewise, with the restriction on single-family removed, many single-family dwellings can be viable as 4-bedroom units. Extensive support was extended for the Department having removed the restriction on single-family development because rural areas often have a preference for single-family dwellings and the tax credit program can work as an important tool for producing single-family housing in rural areas. Some confusion was voiced over where the QAP addressed allowing single-family units in rural areas, which was in the 2002 QAP as an exception under Ineligible Building Types. Comment also supported the Department having removed scattered site developments from the definition of an ineligible building type.

Department Response: Staff concurs with comment regarding 4 bedroom units and proposes deleting them as an ineligible building type so that developments can include 4-bedroom units. It should be noted that later in this memo staff recommends the removal of “family” points thereby removing any incentive to do 4-bedroom units which will mean that any 4-bedroom units proposed are truly based on market demand. To clarify the confusion regarding single family development in rural areas: because the restriction on single-family, duplex and triplex development was removed entirely from the QAP, no exception is needed for rural areas. As drafted, any development, rural or non-rural, can develop single-family, duplex or triplex developments since it is no longer considered an ineligible building type. No other changes are proposed.

“(48) Ineligible Building Types - Those buildings or facilities which are ineligible, pursuant to this QAP, for funding under the tax credit program as follows:

(A) Hospitals, nursing homes, trailer parks and dormitories (or other buildings that will be predominantly occupied by Students) or other facilities which are usually classified as transient housing (other than certain specific types of transitional housing for the homeless and single room occupancy units, as provided in the Code, §§42(i)(3)(B)(iii) and (iv) are not eligible. However, structures formerly used as hospitals, nursing homes or dormitories are eligible for credits if the Development involves the conversion of the building to a non-transient multifamily residential development.

(B) Any Qualified Elderly Development of two stories or more that does not include elevator service for any Units or living space above the first floor.

(C) Any Development with building(s) with four or more stories that does not include an elevator.

~~(D) Any Development having any Units with four or more bedrooms.”~~

§49.3(53) – Definition of Material Non-Compliance

Comment: Broad support was voiced for the changes in the draft 2003 QAP relating to material noncompliance for out of state developers.

Department Response: No changes are proposed.

§49.3(54) – Definition of Office of Rural Community Affairs

Comment: Amend to show that ORCA has approval authority over all selection criteria of the rural set-aside and supercedes TDHCAs authority in that regard.

Department Response: While the IRS permits more than one allocating agency, TDHCA does not have the authority to designate those entities. The Governor of the State of Texas would need to designate ORCA as an allocating agency. Therefore, neither TDHCA nor the QAP can “give” away its authority to allocate all of the credits for the state of Texas. The Department and ORCA are in the process of executing a Memorandum of Understanding that will identify the role of ORCA in the administration of the rural set-aside. That document is independent of the Qualified Allocation Plan but will address the involvement of ORCA in the allocation process. However, staff did revise the definition of ORCA to more accurately refer to the entity.

~~(54) Office of Rural Community Affairs (ORCA) – The state agency designated by the legislature as primarily responsible for rural area development in the state.~~

(55) ORCA - Office of Rural Community Affairs, as established by Chapter 487 of Texas Local Government Code.

§49.3(57) – Definition of Pre-Application

Comment: Amend by allowing a rural set-aside application form to be prescribed by, and filed with, ORCA.

Department Response: The Department and ORCA are in the process of executing a Memorandum of Understanding that will identify the role of ORCA in the administration of the rural set-aside. That document is independent of the Qualified Allocation Plan but will address the involvement of ORCA in the allocation process.

§49.3(61) – Definition of Qualified Allocation Plan

Comment: Amend by showing that ORCA maintains adopting authority over those portions of the QAP that relate to the rural set-aside.

Department Response: While the IRS permits more than one allocating agency, TDHCA does not have the authority to designate those entities. The Governor of the State of Texas would need to designate ORCA as an allocating agency. Therefore, neither TDHCA nor the QAP can “give” away its authority to allocate all of the credits for the state of Texas. The Department and ORCA are in the process of executing a Memorandum of Understanding that will identify the role of ORCA in the administration of the rural set-aside. That document is independent of the Qualified Allocation Plan but will address the involvement of ORCA in the allocation process.

§49.3(82) – Definition of Unit

Comment: The definition of Unit is unclear about whether the living, sleeping, cooking and sanitation areas have to be separate completely segregated spaces. If it is interpreted to be strictly segregated spaces, this precludes the possibility of loft style or open floor plan developments. The positive attributes of loft style living were described. It was suggested that loft styles only be permitted in adaptive reuse developments to increase the possibility of low income housing remaining available in rapidly gentrifying areas where redevelopment is being prompted. Specific revision language for the definition was provided.

Department Response: The Department concurs that the definition for Unit may need to be “modernized,” as with the definition of Bedroom. However, staff feels that more extensive research is required to identify the implications of changes and consider the approach that other states are taking on this issue with the intention of making a recommendation for the 2004 QAP. No changes are proposed.

§49.5(a)(4) – Ineligibility

Comment: Comment suggested that the current language regarding audit findings be adjusted because the language is unclear as to whether it refers to the June meeting at which the Board first considers the applications or the July meeting at which the allocations are made.

Department Response: Under 10 TAC §1.3: “a person is not eligible to receive funds, a new contract, loan, or allocation of low income housing tax credits from the department until any unresolved audit finding or questioned or disallowed cost is resolved.” The language in the QAP was drafted to give time for applicants to clear up any issues before the Board meets for the first time (June). This gives the Board time to determine another applicant that is qualified to replace the applicant with unresolved audit findings. Clarification is provided with a specific date that allows staff time to review any documents prior to the Board’s June meeting.

“A Person is not eligible to receive a commitment of credits from the Department if any audit finding or questioned or disallowed cost is unresolved as of June 1 of each year, or for Tax Exempt Bond Developmetns is unresolved as of the date the Application is submitted. ~~the date the Board meets to review the recommendations of Department staff regarding Applications.~~”

§49.5(b)(6) and (7)– Material Non-Compliance for Out of State Developers

Comment: Extensive comment supported the changes made in the draft 2003 QAP.

Department Response: No change is proposed.

§49.5(b)– Disqualification and Debarment – Terminology throughout Section

Comment: In clauses (3), (5), (6), (7), (8), and (10) the language is as follows: "the Applicant or any Person, General Partner, general contractor and their respective principals or Affiliates active in the ownership or control of other low income housing tax credit property . . ." The use of multiple terms (principals, Affiliates) to try to capture all parties involved in the ownership or control of an enterprise can be confusing. The language proposed will get the Department to the desired result more simply.

Department Response: Proposed language will be replaced at each of the above-referenced paragraphs with the exception that in paragraph (10) the term Related Party was retained as required by §2306.1113 of Texas Government Code.

"the Applicant, the Development Owner, or the General Contractor, or any Affiliate of the Applicant, the Development Owner, or the General Contractor that is active in the ownership or control of one or more ..."

§49.5(b) – Disqualification and Debarment – Initial Language

Comment: The current language discusses disqualifying and disbaring an Application and also discusses disqualifying a Person. The QAP should be clarified to show that the Application would be disqualified and the Applicant/Person would be disbarred. In addition, the phrase "Causes for disqualification and debarment include:" could be added at the end of this opening paragraph to enhance clarity.

Department Response: The Department will be working actively through 2003 for a more defined debarment policy and procedure. However, staff concurs with the proposed clarification.

"(b) Disqualification and Debarment. Additionally, the Department will disqualify, ~~and may disbar,~~ an Application, or debar a Person, if it is determined by the Department that those issues identified in paragraphs (1) through (10) of this subsection exist. A ~~p~~Person debarred by the Department from participation in the program, or an Applicant whose Application has been disqualified, may appeal the ~~person's~~ debarment or disqualification to the Board. The Department shall debar a ~~p~~Person for the longer of, one year from the date of debarment, or until the violation causing the debarment has been remedied. Causes for disqualification and debarment include:"

§49.5(b)(2) – Disqualification and Debarment – Past Department Employment

Comment: What is the implication of the clause "during the two-year period preceding the date the application round begins.." for tax-exempt bond transactions? By definition, the term Application Round only applies to Developments seeking tax credits from the State Housing Credit Ceiling.

Department Response: Staff concurs that the reference to the Application Round makes this difficult to interpret as it relates to bond transactions. Revision is proposed below. Additionally for consistency with the reorganization being implemented at the Department, titles were altered to more accurately reflect the titles of those positions.

"at the time of application or at any time during the two-year period preceding the date the application round begins (or for Tax Exempt Bond Developments any time during the two-year period preceding the date the Application is submitted to the Department), the Applicant or a Related Party is or has been..."

"(B) the executive director, ~~the deputy executive director for programs, the deputy executive director for housing operations, the director of multifamily finance production, the director of portfolio management and compliance or the director of real estate analysis employed by the Department. a deputy director, the director of housing programs, the director of compliance, the director of underwriting, or the Low Income Housing Tax Credit Program manager employed by the Department."~~

§49.5(b)(4)(B) – Disqualification and Debarment - Public Housing / Section 8

Comment: Comment was received that monitoring for this requirement is essential and it was requested that the complex should be mandated to advertise its obligation to accept Section 8 tenants. It was also suggested that the Department clarify that the applicant can replace private activity bond financing of the development if one third of the units are public housing units or section 8 development-based units, and the applicant proposes to maintain the project's original affordability percentages. The current language can be interpreted to mean that the project must maintain all of the units as affordable if financing is proposed to be replaced as opposed to 100% of the units that are designated as affordable in their original allocation agreement.

Department Response: Staff does not feel that owners need to advertise their acceptance of Section 8 tenants beyond their existing requirement to notify the public housing authority as the housing authority is the primary referral source for low income voucher holders. §2306.6703 of Texas Government Code provides the requirement verbatim relating to private activity bond financing. No changes are proposed.

§49.5(b)(6) – Disqualification and Debarment – Material Noncompliance

Comment: It is proposed that the language be revised to clarify terminology and address the Material Non-Compliance correction period for applications involving Tax Exempt Bond Developments. It was suggested that they should probably be completed within a certain number of days prior to the Board meeting at which the Application is considered.

Department Response: Staff concurs with these revisions, although the date chosen for corrections to be submitted for bond developments must be prior to the receipt of the Volume I, since noncompliance reports are run on the day the Volume I is submitted. Corrections would clearly need to be submitted prior to the day the report is run. Clarification of QAP reference in last sentence for referential integrity. §49.13(a)(6) was also revised to reflect these changes for consistency.

“(6) the Applicant, the Development Owner, or the General Contractor, or any Affiliate of the Applicant, the Development Owner, or the General Contractor that is or any Person, General Partner, general contractor or their respective principals or Affiliates active in the ownership or control of one or more other low income rental housing properties in the state of Texas funded by the Department is in Material Non-Compliance with the LURA (or any other document containing an Extended Low Income Housing Commitment) or the program rules in effect for such property on the date the Application Round closes or upon the date of filing Volume I of the Application for a Tax Exempt Bond Development, and such Material Non-Compliance is not corrected as provided herein. Any corrective action documentation affecting the Material Non-Compliance status score for Applicant's competing in the 2003 Application Round must be received by the Department no later than February 1, 2003, and any corrective action documentation affecting the Material Non-Compliance status score for Applicants with a Tax Exempt Bond Development must be received by the Department no later than 30 days prior to the submission of Volume I. The Department may take into consideration the representations of the Applicant regarding compliance violations described in §49.9(e)(8)(C) and (D) §49.7(e)(7)(C) and (D) of this title; however, the records of the Department are controlling; or,”

§49.5(b)(7) – Disqualification and Debarment – Out of State Noncompliance

Comment: Comment suggested that because §49.5(b)(6) allows for correction of Material Non-Compliance by a certain date, §49.5(b)(7) should also permit a similar opportunity to cure.

Department Response: Section 42 of the Internal Revenue Code requires notification to an applicant when a state identifies non-compliance. Therefore, the development owner has had ample time and notification by the state in which the violation(s) have occurred to remedy or cure the violation. The date in §49.5(b)(6) merely provides a cut-off date for Texas developments so that the Department has time to enter all corrective actions received into the status system to run the status reports. No changes are proposed.

§49.5(b)(8) – Disqualification and Debarment – Nonpayment of Fees

Comment: Comment supported the department utilizing inspections performed by the construction lenders and syndicators as proposed in the draft 2003 QAP. It was suggested that a change be made to clarify that fees that are outstanding, but not past their due date, should not be grounds for disqualification.

Department Response: Staff concurs with the clarifying language

“the Applicant or any Person, General Partner, General Contractor and their respective principals or Affiliates active in the ownership or control of other low income housing tax credit properties in the state of Texas has failed to pay in full any fees billed by the Department after the due date has passed, as further described in §49.21 of this title; or”

§49.5(b)(10) – Ex Parte

Comment: It was suggested that some means of communication is needed during the cycle. The weekly meetings last year were good, but were too late. Perhaps meeting with a combination of three committee members, or meeting with a committee member, the Deputy and a secretary, would be suggested alternatives.

Department Response: The department intends to again hold weekly meetings and will strive to find an acceptable forum for addressing applicant’s communication needs. However, the approach the department will take in working towards this accessibility is not a policy issue for inclusion in the QAP, but rather an administrative decision that will be made as the cycle opens. No changes are proposed.

§49.5(c)(4)(B) – Certain Applicant and Development Standards

Comment: The language that states "breached a contract with a public agency" disqualifies an Applicant that has contracted or intends to contract with any Person that has ever breached a contract with a public agency. Because it is broadly drafted, it presents several problems: (1) What if the Applicant is not aware of the breach? Shouldn’t there be some opportunity for the Applicant to correct the situation if it discovers a problem? (2) What if the Person breached a contract but subsequently cured the breach? The Department should only be able to disqualify an Applicant if the Person in question has an outstanding breach with a public agency that has not been appropriately cured. (3) What if the public agency alleges the Person breached the contract but the Person disagrees and a bona fide dispute exists? If the Person accused of breach is actively pursuing resolution of the dispute and defending itself, then an Applicant should not be disqualified. There should be some concept of a final determination as to the breach. (4) Does "breach" mean a material breach, or can it include any technical breach?

Department Response: The Department has integrated this language verbatim directly from §2306.223. Staff recommends keeping this language consistent with legislation.

§49.5(c)(4)(C) – Certain Applicant and Development Standards

Comment: In the clause, “misrepresented to a subcontractor the extent to which the developer has benefited ...” to what kind of subcontractor is it intended to apply?

Department Response: The Department has integrated this language verbatim directly from §2306.223. Staff recommends keeping this language consistent with legislation.

§49.5(d) – Representation by Former Board Member or Other Person

Comment: One comment suggesting adding a grandfather clause for employees who left the department prior to the enactment of the provisions contained in SB322, prior to September 1, 2001. It was also suggested that a minor revision would better balance the sentence.

Department Response: The Department does not have the authority to grandfather a legislative provision. Clarifying change is supported by staff. However, for consistency with the reorganization being implemented at the Department, titles were altered to more accurately reflect the titles of those positions.

“(1) a former ~~Board member~~ or a former executive director, deputy executive director for programs, deputy executive director for housing operations, director of multifamily finance production, director of portfolio management and compliance or director of real estate analysis ~~director, deputy director, director~~

~~of housing programs, director of compliance, director of underwriting, or Low Income Housing Tax Credit Program Manager previously employed by the Department may not:~~"

"(A) for compensation, represent an Applicant or one of its Related Parties for an allocation of tax credits ~~or a Related Party of an Applicant~~ before the second anniversary of the date that the Board member's, director's, or manager's service in office or employment with the Department ceases;"

§49.6(a) – Floodplain Restriction

Comment: The limitation on no development in a 100 year floodplain is inappropriate and its removal is recommended. Most land in Harris County at an acceptable price, and along the coast, has floodplain issues. Suggestions for alternatives included revising the requirement so that all building slabs must be at least one foot above the 100year flood plain and parking and drive areas should be no lower than six inches below the floodplain, subject to more stringent local requirements; or that at least overflow or visitor parking be permitted in a 100 year floodplain. This protects the viability of the development but allows developments to proceed that would be eliminated from consideration.

Department Response: The Department agrees that the 100 year floodplain restriction can be made somewhat less restrictive. However, the language from 2002 was not quite specific enough as to what the Department would permit. The Department thinks that more research needs to be done on this issue for 2004, but as an interim solution that is more restrictive than 2002, but less restrictive than the draft 2003 QAP, compromise language based on comment is proposed.

~~"(a) Floodplain. Any Development located No Development may have buildings, driveways or parking lots constructed~~ within the 100 year floodplain as identified by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps must develop the site so that all finished ground floor elevations are at least one foot above the flood plain and parking and drive areas are no lower than six inches below the floodplain, subject to more stringent local requirements. If no FEMA Flood Insurance Rate Maps are available for the proposed Development, flood zone documentation must be provided from the local government with jurisdiction identifying the 100 year floodplain."

§49.6(d) – Credit Amount

Comment: Several comments opposed the inclusion of "entities receiving a portion of the developer fee" for purposes of evaluating the \$1.6 million cap per Applicant. Developers with limited net worth (many of whom are HUBs) have historically brought in partners with a higher net worth to provide guarantees and gave that more experienced partner a portion of the developer fee. It was requested that the language go back to the 2002 language. Conversely, the current language was widely supported and it was suggested that the evaluation be made even more restrictive and include "anyone who is anticipated to provide, for a fee, a guarantee to secure equity or financing for the transaction." Another suggestion was that it should include employees of the developer/applicant and anyone who receives a portion of any contractor overhead or profit. It was recommended that the term "Related Party" be removed as this definition is nebulous.

Comment was also received that to help the department get more information about the parties behind the developments we can require the applicant to obtain a letter from his/her syndicator or investor listing the names of the prospective guarantors for the developments. By gathering this information, the syndicator would be able to notify the department who is really benefiting from fees and cash flow. Another suggestion was that syndicators and / or lenders should notify the department after a deal closes confirming that the GP stayed who was originally indicated. Add to Application Submission Procedures Manual and addendum to the Development Cost Schedule that the contractor or its affiliate are not receiving any other fees for guarantees in excess of the 6%-6%-2% guidelines.

Another comment suggested that if the 76 unit cap for rural developments is removed the limit should be increased to \$1,950,000 per applicant. Recommend, to encourage viable partnerships, changing the cap determination to a prorated distribution of the higher of the developer fee or ownership interest, directly or indirectly. For example, if a nonprofit partner were getting 25% of the developer fee, and the developer fee

was \$1,000,000 only \$250,000 would be attributed against their cap/applicant. To avoid abuse, recommend the use of an affidavit stating the amount of beneficial ownership.

Some suggested changes to the initial statement were suggested for clarity. It was also suggested that clause (3) be revised to identify that another key role that non-profits often play with regard to Developments is social service provision. Comment was received asking that the \$1.6 million cap be applied fairly to all applicants.

Department Response: The Department has been challenged by improving the monitoring and evaluation of the \$1.6 million limit per Applicant. While staff acknowledges that this is “evolving” language that will need further refinement, it also feels that the efforts to date are a step in the right direction. Therefore, staff does not recommend the removal of “entities receiving a portion of the developer fee,” although that clause has been replaced by the word “Developer” as a proposed defined term. Staff concurs with the widely supported addition of those guaranteeing the financing for fee as they derive a similar benefit as the other parties being restricted. Staff does not feel that this should extend to employees of developers or applicants, or to contractors, as the extent of the restriction becomes excessive. Staff concurs with the removal of the term “Related Party” because of its tenuous nature.

Staff appreciates comments received on how to best gather the information to monitor this restriction. Suggestions relating to requiring documents from syndicators are not proposed for 2003 as they require adequate dialogue with syndicators/lender to establish procedures for implementation; however these comments will be considered as the 2004 QAP is drafted. The Department does intend to create an exhibit for the 2003 application that will require the provision of information relating to this restriction including an affidavit stating all parties to whom the restriction applies, and will add a clause to the Development Cost Schedule requiring that the contractor or its affiliate certify that they are not receiving any other fees for guarantees in excess of the 6%-6%-2% guidelines.

While staff is aware of the support for evaluating the cap by prorating the distribution of credits based on the ownership interest (or developer fee), the level of administrative oversight for that type of restriction is quite onerous. At this time staff does not recommend this revision although it will be taken into consideration for the 2004 QAP. Revisions for clarity and relating to nonprofits were accepted.

~~“The allocation of tax credits shall also be limited to not~~ The Department shall not allocate more than \$1.6 million of tax credits in any given Application Round per to any Applicant, Developer, or entity that provides, or is anticipated to provide, for a fee, a guarantee to secure equity or financing for the transaction. Related Party or entity receiving any portion of the developer fee, in a single Application round. Tax Exempt Bond Development Applications are not subject to these credit limitations, and Tax Exempt Bond Developments will not count towards the total limit on tax credits per Applicant. The limitation does not apply:

(1) to an entity which raises or provides equity for one or more Developments, solely with respect to its actions in raising or providing equity for such Developments (including syndication related activities as agent on behalf of investors);

(2) to the provision by an entity of “qualified commercial financing” within the meaning of the Code (without regard to the 80% limitation thereof);

(3) to a Qualified Nonprofit Organization or other not-for-profit entity, to the extent that the participation in a Development by such organization consists only of the provision of loan funds or grants or social services; and

(4) to a Development Consultant with respect to the provision of consulting services.”

§49.6(e)(1) – Limitations on Size of Developments – 16 Unit Minimum

Comment: It was recommended that the limit to 16 units be amended to include single-family developments because multifamily developments may not be a viable option in many rural communities and rural areas often have a preference for single-family dwellings. The tax credit program is an important tool for producing

single-family housing in rural areas. It was also suggested that the 16 unit minimum be removed for nonprofit organizations.

Department Response: The Department feels that a minimum of 16 units is acceptable – developments smaller than this make monitoring onerous and reduce any economies of scale for the developer. It should be noted that single-family developments are permitted as currently drafted as long as there are at least 16 single family dwelling units in the development.

§49.6(e)(2) – Limitations on Size of Developments – Unit Maximums

Comment: Support was given for the removal of the 76 unit cap on the rural set-aside developments because it allows each development's size to be individualized to the communities needs and market demand and also allows for better economies of scale. However, there was extensive opposition to the removal of the 76 unit cap and support for reinstating the 2002 language. Reasons for concern included that the 15% rural set-aside figure is successful because of the unit cap restriction, the cap allows credits to be spread over more rural areas, and truly rural areas will be penalized if the cap is removed. One comment suggested that if the 76 unit cap is not reinstated, the department should evaluate rural units caps in relation to the low income targeting exhibit. One suggestion for the rural set-aside cap was to determine the per capita amount of credits that each city/county would get and then allow a development that size – the credits would need to build up for several years. It was suggested that the count would start as of 2000.

It was recommended by DHA that to better accommodate the PHAs goal of replacing and deconcentrating their stock, they need to be able to move some of the replacement housing off-site. The off-site replacement units do not negatively impact the housing market because they replace demolished units and the proposed tenants are drawn from the former tenants of the demolished units. Therefore, it is suggested that the language relating to second phases be revised to accommodate these scenarios.

The term “stabilized” needs to be defined more clearly for this section and the date which it would need to be met in relation to the application cycle should be determined. Perhaps the definition of “Sustaining Occupancy” from the Underwriting guidelines could be used to provide clarity, or a 1.15 to 1 debt service coverage on permanent loan or permanent loan commitment debt could be used.

Support was given for keeping the tax credit development limit at 200 units because it diversifies risk and reduces concentration. Conversely, there was strong support for changing §49.6(e)(2) to say that 9% credits will be permitted at the 250 unit level but that only 200 of the units can be low income. It was also recommended that for 2004 bond developments be allowed to increase to 280.

Department Response: Based on public comment staff is recommending the reinstatement of a 76 unit cap for Developments in the Rural Set-Aside. Suggestions from the public housing authorities relating to replacement housing are recommended. Clarification regarding stabilization was provided by referring to Sustaining Occupancy, a defined term in the Underwriting Guidelines. Staff concurred with the recommendation to allow 250 units, as long as only 200 of the units are low income, for the competitive cycle, but did not concur with increasing the bond developments to 280 primarily in an effort to reduce low income concentration.

“(2) Rural Developments involving new construction will be limited to 76 Units unless the Market Study clearly documents that larger developments are consistent with the comparables in the community and that there is significant demand for additional Units. Rural Developments exceeding 76 Units based on the Market Analysis will be ineligible for the Rural Set-Aside.

(3) Developments involving new construction, that are not Tax Exempt Bond Developments, will be limited to 250 Units. Tax Exempt Bond Developments will be limited to 280 Units. For the 2004 Application Round, Developments involving new construction, that are not Tax Exempt Bond Developments, will be limited to 250 Units, wherein the maximum rent restricted Units will be limited to 200 Units. For Applicants competing in the 2004 Texas Bond Review Board Multifamily Lottery, Tax Exempt Bond Developments will

be limited to 250 Units. These maximum Unit limitations also apply to those Developments which involve a combination of rehabilitation and new construction. Developments that consist solely of acquisition/rehabilitation or rehabilitation only may exceed the maximum unit restrictions. For those Developments which are a second phase or are otherwise adjacent to an existing tax credit Development unless such proposed Development is being constructed to provide replacement of~~replace~~ previously existing affordable multifamily units on its site (in a number not to exceed the original units being replaced) or that were originally located within a one mile radius from the proposed Development, the combined Unit total for the Developments may not exceed the maximum allowable Development size, unless the first phase has been completed and has attained Sustaining Occupancy stabilized for at least six months.”

§49.7(b) – Set Asides

Comment: Two comments suggested that the rural set-aside be increased from 15% of the credit ceiling to 25% of the credit ceiling. Statistics were provided that indicated roughly 25% of the state’s population lives in rural areas and that on a national basis rural areas account for 42% of all substandard housing. Adjusting the rural set-aside amount better enables all communities to participate in the LITHC program. Comment was received opposing the fact that the rural set aside is met statewide before the general set-aside making some general deals not able to get an allocation in some regions. Similarly, another comment criticized that the elderly set-aside is evaluated statewide and thought it should be evaluated on a regional basis. Comment supported allowing applicants to compete in more than one set-aside, however some concern was voiced that this may work against rural areas or nonprofits. Clarifying language for the At-Risk Set-Aside was also provided because the current language implies that 15% of the tax credits actually will be allocated to At-Risk Developments, even if the At-Risk category is undersubscribed. The recommended language indicates that 15% of the allocation will be set aside for these deals but does not require the actual allocation of 15% of the credits if there are not sufficient qualified Applications.

Department Response: The Department, along with the Rural Rental Housing Association, does not support an increase of the Rural Set-Aside. The Set-Aside has a low oversubscription rate; to increase the set-aside at this time would result in the very least competitive rural applications getting awards, which is not in the best interest of the Department or the tenants. The Department will continue to ensure that all non-General set-asides are met statewide as this ensures that the best developments in each set-aside are selected. For consistency with the Unit cap being reinstated on the Rural Set-Aside the mention of the cap was added back into the Set-Aside language. The clarifying language for the At-Risk set-aside was integrated.

“(2) At least 15% of the State Housing Credit Ceiling for each calendar year shall be allocated to Developments which meet the Rural Development definition or are located in Prison Communities. Rural Developments applying for greater than 76 Units will be ineligible for the Rural Set-Aside. Of this 15% allocation, 25% will be set-aside for Developments financed through TX-USDA-RHS. Developments financed through TX-USDA-RHS’s 538 Guaranteed Rural Rental Housing Program will not be considered under the 25% portion. Should there not be sufficient qualified applications submitted for the TX-USDA-RHS set-aside, then the credits would revert to Developments that meet the Rural Development definition or are located in Prison Communities.

(3) At least 15% of the State Housing Credit Ceiling will be set aside for allocation under the At-Risk Development Set-Aside. ~~At least 15% of the State Housing Credit Ceiling will be allocated to the At-Risk Development Set-Aside.~~ Through this set-aside, the Department, to the extent possible, shall allocate credits to Applications involving the preservation of developments designated as At-Risk Developments as defined in §49.3(12) of this title and in both urban and rural communities in approximate proportion to the housing needs of each uniform state service region.”

§49.8(b) – Pre-Application Evaluation Process

Comment: Comment was received asking that the language relating to USDA eligibility be revised to be clearer in item (b). Comment was also received supporting the changes to the pre-application process including the reduction of points and the reduced level of staff review. Comment suggested making ORCA the entity responsible for determining if applications submitted under the rural set-aside have satisfied all relevant

criteria. As it relates to the “requested” evaluation of the concentration policy, the QAP needs to clarify who would make the request.

Department Response: Clarification on USDA eligibility is recommended. The Department and ORCA are in the process of executing a Memorandum of Understanding that will identify the role of ORCA in the administration of the rural set-aside. That document is independent of the Qualified Allocation Plan but will address the involvement of ORCA in the allocation process. Clarification regarding the request for the concentration policy is recommended.

(b) Pre-Application Evaluation Process. Eligible Pre-Applications will be evaluated for Pre-Application Threshold Criteria, and as requested by the Applicant, evaluated in regards to the Department’s concentration policy. ~~Applications that involve financing from TX-USDA-RHS, and Applications for the rehabilitation of TX-USDA-RHS properties that do not have new financing, Any Application from a TX-USDA-RD 515 Development (including new construction and rehabilitation) is~~ are exempted from the Pre-Application Evaluation Process and ~~is~~ are not eligible to receive points for submission of a Pre-Application. An Application that has not received confirmation from the state office of RHS of its financing from TX-USDA-RHS may qualify for Pre-Application points, but such points shall be withdrawn upon the Development’s receipt of TX-USDA-RHS financing.” (21)

§49.9(a) – Application Submission

Comment: As it relates to the restriction for only one application to be submitted for a site during the application acceptance period, clarification is needed. The Application Acceptance Period encompasses both Developments seeking State Housing Credit Ceiling and Tax Exempt Bond Developments. As you know, Applicants that are unsuccessful in competing for State Housing Credit Ceiling often apply for tax exempt bond allocations. Therefore, it may be possible that more than one Application for the same site could be submitted in the same Application Acceptance Period.

Department Response: Clarification is provided to refer to the Application Round which applies only to the applications competing under the Credit Ceiling.

“Only one Application may be submitted for a site in an Application Round.~~during the Application Acceptance Period.~~”

§49.9(c) – Evaluation Process

Comment: Comment supports the 2003 QAP as drafted. One comment suggested making ORCA the entity responsible for determining if applications submitted under the rural set-aside will be sent to underwriting. One comment asked that correctable deficiencies be identified as administrative deficiencies for clarity and address what ranking is referred to in paragraph (2).

Department Response: The Department and ORCA are in the process of executing a Memorandum of Understanding that will identify the role of ORCA in the administration of the rural set-aside. That document is independent of the Qualified Allocation Plan but will address the involvement of ORCA in the allocation process. Clarification was given regarding administrative deficiencies and ranking.

“Applications will be initially evaluated against the Threshold Criteria. Applications not meeting Threshold Criteria will be terminated, unless the Department determines that the failure to meet the Threshold Criteria is the result of Administrative Deficiencies ~~correctable deficiencies~~, in which event the Applicant shall be given an opportunity to correct such deficiencies.”

“Applications not scored by the Department’s staff shall be deemed to have the points allocated through self-scoring by the Applicants until actually scored. This shall apply only for ranking purposes ~~of releasing the Submission Log in ranking order by score.~~”

§49.9(d) – Required Pre-Certification and Acknowledgement Procedures

Comment: Comment was received asking that the general contractor be added back into the QAP as a source of experience. By having removed the general contractor as a source of an applicant’s experience the Department will have an extremely detrimental effect on the number of Historically Underutilized Businesses (HUBs) able to participate in the program, as well as other applicants with limited experience. By no longer

allowing those with limited experience to enter the program and gain experience by partnering with an experienced general contractor, the Department forces the inexperienced applicant to either cede control and interest in the property or not participate in the program – neither of which are acceptable options to the people making the comments. Because the \$1.6 rule is in place the experienced partners will not see a need to have an ownership partnership with an inexperienced applicant but will instead do their own developments, making it almost impossible for an inexperienced applicant to gain entry into the program. Conversely, broad support was provided for sustaining the removal of the GC from the experience requirement.

It was also suggested that the experience of the management company be added as a possible source of experience because they are involved for the duration of the operation of the development. It was also suggested that because PHAs, as governmental entities, must be treated uniquely because they must create a nonprofit entity to develop tax credits that do not have members, principals or shareholders, but rely instead on the experience of PHA staff. It is requested that a clause be added allowing PHAs to count their staff experience as the experience of the PHA.

Comment was received indicating that the certification should not have to be requested for developments who already have qualified with an experience certificate in the past and that the department should automatically provide it to anyone with the acceptable experience in our records. It was also suggested that the “list” of persons who are eligible for the experience should be revised for clarity to show the Applicant, Development Owner, Developer, or their respective Affiliates.

Department Response: The Department believes that limiting the development experience to those with an ownership interest and those receiving a Developer Fee ensures that the necessary experience is in the hands of those with the most control over the development. While the Department sees merit in evaluating the experience of the management company, the experience threshold and documentation requirements for that proposal warrant more research prior to implementation. The clarifying language for PHAs was added. Certifications from 2002 can be used by applicants for 2003 if they prefer not to request a new certification, however the Department will not automatically send an updated certificate without a request being made. Staff does not suggest revising the parties for who experience can be accepted. Additionally, in paragraph (2) relating to the acknowledgement staff noted that the people required to submit the financial acknowledgement form were different from the people required to submit the same form as referenced in threshold. Therefore, staff has adjusted the language in this section to match the language in threshold for consistency and to more accurately reflect the name of the form.

“Evidence must show that the Development Owner's General Partner, partner (or if Applicant is to be a limited liability company, the managing member), developer or their principals have a record of successfully constructing or developing residential units or comparable commercial property (i.e. dormitory and hotel/motel) in the capacity of owner, General Partner, developer or managing member. If a Public Housing Authority organized an entity for the purpose of developing residential units or comparable commercial property, the Public Housing Authority shall be considered a principal for the purpose of this requirement.”

“A ~~Personal Financial and Credit Statement and Authorization to Release Credit Information~~ must be completed and signed for any Person with an ownership interest in the General Partner (or Managing Member), interest in the Applicant, or the Developer, or anticipated to provide guarantees to secure necessary financing. by each Person with a General Partner (or if Applicant is to be a Limited Liability Company, managing member) interest in the Applicant.”

§49.9(d)(1)(B) – Required Pre-Certification and Acknowledgement Procedures - Documentation

Comment: Comment suggested that the references to who needs the experience in subparagraph (B) and in clause (ii) needs to match who needs the experience in Section 49.9(d)(1).

Department Response: Clarifying language for consistency with Section 49.9(d)(1) was provided.

“(B) One of the following documents must be submitted: American Institute of Architects (AIA) Document A111 - Standard Form of Agreement Between Owner & Contractor, AIA Document G704 - Certificate of Substantial Completion, IRS Form 8609, HUD Form 9822, development agreements, partnership agreements, or other appropriate documentation verifying that the Development Owner’s General Partner, partner (or if Applicant is to be a limited liability company, the managing member), Developer or their Principals ~~General Partner or their principals~~ have the required experience. If submitting the IRS Form 8609, only one form per Development is required. The evidence must clearly indicate:

(i) that the Development has been completed (i.e. Development Agreements, Partnership Agreements, etc. must be accompanied by certificates of completion.);

(ii) that the names on the forms and agreements tie back to the Development Owner’s General Partner, partner (or if Applicant is to be a limited liability company, the managing member), Developer or their Principals ~~ownership entity, General Partner and their respective principals~~ as listed in the Application; and

(iii) the number of units completed or substantially completed.”

§49.9(e)(4)(A) – Threshold Criteria – Amenities

Comment: It was suggested that pay phones seem a minor amenity compared to the other features on the list and that perhaps something more comprehensive should replace it. It was also suggested that pay phones be mandatory at all developments.

Department Response: Pay phone are an amenity to the tenants that the Department values. It is increasingly difficult to get pay phones installed which makes them on par with some of the other amenities listed. No changes are proposed.

§49.9(e)(4)(D) – Threshold Criteria – Use of Minority Businesses Certification

Comment: It was suggested that this language be deleted and made a requirement of the construction loan closing or cost certification because this seems the more appropriate time for reporting this information. It was also proposed that the language specify that the report only be required while the development is under construction.

Department Response: §2306.6734 of Texas Government Code instituted this requirement. The department must require a person who receives an allocation of credits to attempt to ensure that they will meet this requirement. The Department feels therefore that the certification must be signed at application, before a commitment of an allocation is generated. The legislated requirement does not limit the time period for submitting the report each 90 days only to the duration of construction; therefore neither will the Department limit the time period.

§49.9(e)(4)(E) – Threshold Criteria – Section 504 Requirements

Comment: Comment was received strongly supporting the existing language in this section and commends TDHCA for making this strong commitment to the disability community. There was a recommendation to remove the Section 504 accessibility requirements for rehabilitation developments because it is cost prohibitive and will greatly reduce the at-risk and/or preservation applications. Applying §504 criteria is very expensive and can be problematic for rehabilitation Developments that are small or in rural or low-income areas. We understand that the Department believes the equity from the tax credits should be used to help the Development achieve these standards, but the tax credit equity simply may not be enough to cover the cost. One compromise may be to require the satisfaction of §504 standards for rehabilitation Developments if the total cost of rehabilitation exceeds 50% of the appraised value of the Development. This is a standard commonly used by municipalities in their building codes and therefore would be consistent with local practice.

Department Response: The Department concurs with the critique that rehabilitation can be quite costly as it relates to implementing accessibility standards. However, §504 has already addressed a more limited standard for existing developments undergoing alterations, as further described in §8.23 of 24 CFR Part 8 Subtitle A. As similarly proposed in comment, it only requires the higher level of redesign (as required of new

construction) if the development has 15 or more units and the cost of the alterations is 75% or more of the replacement cost of the completed facility. No changes are proposed.

§49.9(e)(4)(F) – Threshold Criteria – Energy Saving Devices

Comment: Comment was received suggesting that energy saving devices should be integrated as a point incentive in the selection criteria instead of as a threshold requirement so that developers can develop each application to meet region-specific needs. Comment was also received indicating that R-15 insulation is much more costly than R-13 and that if R-13 insulation is used on exterior walls with all cracks properly sealed with a sealant that it is as good as, if not better than R-15 alone. Also because most heat loss is through the roof or ceiling, R-36 is preferable to R-30 for insulation in the attics. Comment also suggested that for rehabilitation developments where the R-30 factor is impractical or infeasible (insufficient space) that a smaller R value be accepted, possibly also with replacement devices such as duct sealants or a higher SEER rating for the air conditioning. Requiring installation of solar screens or permanently fixed shade devices on sun-exposed windows will inadvertently remove historic structures from competition because these devices alter the exterior appearance of the structure, thereby violating historic preservation codes. Comment supported deleting items (v) and (vi) that require ceiling fans and solar screens because these should not be the minimum standard. It was also suggested that in defining energy efficiency ratings, the department needs to strike a balance between energy efficiency and cost savings. For example, gas furnaces being required to have a 90% AFUE rating are more costly. The state energy code that requires an 80% AFUE gas furnace rating has found a more acceptable balance.

Department Response: The Department is striving to generate an Energy Efficiency Threshold for all multifamily developments that indicates a commitment to reduced energy costs for tenants. Retaining the energy saving devices in the threshold criteria of the QAP is an effort in meeting that goal. The Department concurs that R-15 can be costly and believes that R-36 is excessive and cost-inefficient, particularly for some areas of the state. Therefore staff has revised this exhibit to allow developments to meet code as it relates to insulation, which already accounts for insulation relating to rehabilitation. The Department concurs that historic preservation codes should take precedence so a clause has been added to the introduction of the section. The Department recommends retaining ceiling fans but is agreeable with removing solar screens as experts have become increasingly critical of solar screens and they are often inappropriately used. As it relates to the AFUE standard, the Department acknowledges that the AFUE of 90% is more costly to the developer at the time of construction, but that there is a huge service to the tenant, which provides adequate substantiation.

“(F) A certification that the Development will adhere to the 2000 International Energy Conservation Code (IECC) and the Department’s Minimum Standard Energy Saving Devices in the construction of each tax credit Unit, historic preservation codes notwithstanding. Minimum Standard Energy Saving Measures are identified in clauses (i) through (vi) of this subparagraph. All Units must be air-conditioned. The measures must be certified by the Development architect as being included in the design of each tax credit Unit prior to the closing of the construction loan and in actual construction upon Cost Certification.

(i) Insulation values must meet the 2000 International Energy Conservation Code (IECC) for the region in which the development is located. New Construction to have components of the exterior walls that total at least R-13 with proper use of sealant R-15, ceiling insulation at a minimum of R-30, and roof decking to have radiant barriers. Rehabilitation to have ceiling insulation at a minimum of R-30, Rehabilitation developments must also include soffit and ridge vents. and storm windows;

~~(vi) Installation of solar screens or permanently fixed shading devices at sun-exposed windows.~~

§49.9(e)(4)(H) – Threshold Criteria – Architectural Drawings

Comment: Comment was received asking that the floor plan of a “typical” residential building and common area building be sufficient at application because the current language is confusing as a building may have a variety of floor plan mixes within one residential structure.

Department Response: For underwriting purposes, the department needs a floorplan specific to each floor of each building type actually planned for construction to ensure accurate costing methodology. No change is proposed.

§49.9(e)(5)(G) – Threshold Criteria – Site Work Documentation

Comment: Comment indicated concern about the “\$7,500 per Unit” number used in this section.

Department Response: The \$7,500 per unit figure used in this section is merely a cut-off figure; if an applicant’s site costs exceed \$7,500 per unit they must submit additional documentation that further substantiates their costs. The figure is not a cap on site costs, but a barometer for receiving more documentation. Interestingly, the average site costs for 2002 applications that were underwritten were \$5,897 per unit for new construction, substantially lower than the number used here.

§49.9(e)(6)(A) – Threshold Criteria – Site Control

Comment: Language should be revised to show that the site control documentation is in the name of the Development Owner or, if not, should be clearly assignable to the Development Owner.

Department Response: The suggested clarification is provided.

“(A) Evidence of site control in the name of the Development Owner ownership entity, or entities which comprise the Applicant. If the evidence is not in the name of the Development Owner, then the documentation should reflect an expressed ability to transfer the rights to the Development Owner. All individual Persons who are members of the ownership entity of the seller of the proposed Development property must be identified. One of the following items described in clauses (i) through (iii) of this subparagraph must be provided:”

§49.9(e)(6)(B) – Threshold Criteria - Zoning

Comment: It was commented by several people that by requiring applicants to have zoning in place by the June board meeting that developers will be competing for a smaller portion of available land because most landowners are reluctant to allow a rezoning of their property (which often involves down zoning from commercial to housing) without an assurance that the buyer will close. The effect of developers competing for fewer acceptable parcels will cause land prices to escalate and thereby undermine the financial feasibility of the development. Other comments were received encouraging the Department to be more restrictive and require appropriate zoning at the time of application because it rewards those developers who have taken those steps prior to submitting their application. However, there was wide support for the language to remain as proposed with evidence of initial zoning approval and recommendation by April 1. Clarifying comments suggested that the QAP needs to be clearer about what documentation is needed from the P&Z folks; that the April 1 date will not be feasible if Tax Exempt Bond Developments are required to meet this element of Threshold Criteria with regard to zoning; and that in clause (I) the word “zoning” should be added and that it should say “or that there is no zoning requirement.”

Department Response: Staff feels that the existing language is an adequate compromise. It does not allow applicants to receive a commitment of an allocation without having their zoning process under way, but likewise does not restrict improperly zoned properties from competing in the application process. Staff feels that the language regarding approval from the Planning and Zoning commission is specific enough; to be more specific may make attaining documentation more difficult. A clarifying date for Bond Developments was added.

“(I) the Development is permitted under the provisions of the zoning ordinance that apply to the location of the Development or that there is not a zoning requirement; or

(II) the Applicant is in the process of seeking the appropriate zoning and has signed and provided to the political subdivision a release agreeing to hold the political subdivision and all other parties harmless in the event that the appropriate zoning is denied, and a time schedule for completion of appropriate zoning. The Applicant must also provide at the time of Application a copy of the application for appropriate zoning filed with the local entity responsible for zoning approval and proof of delivery of that application in the form of a signed certified mail receipt, signed overnight mail receipt, or confirmation letter from said official. No

later than April 1, 2003 (or for Tax Exempt Bond Developments no later than 14 days before the Board meeting where the credits will be committed), the Applicant must submit to the Department written evidence that the local entity responsible for initial approval of zoning has approved the appropriate zoning and that they will recommend approval of appropriate zoning to the entity responsible for final approval of zoning decisions (city council or county commission). If this evidence is not provided on or before April 1, 2003, the Application will be terminated. Final approval of appropriate zoning must be achieved and documentation of acceptable zoning for the Development, as proposed in the Application, must be provided to the Department at the time the Commitment Fee is paid. If this evidence is not provided with the Commitment Fee, any commitment of credits will be rescinded.”

§49.9(e)(6)(C) – Threshold Criteria - Utilities

Comment: Clarification was proposed indicating that the proper party is the Development Owner, not the developer.

Department Response: Staff concurs with the clarification.

“If utilities are not already accessible, then the letter must clearly state: an estimated time frame for provision of the utilities, an estimate of the infrastructure cost, and an estimate of any portion of that cost that will be borne by the Development Owner developer.”

§49.9(e)(6)(D) - Threshold Criteria – Financing

Comment: Comment supported the current draft that allows applicants until Carryover to demonstrate a commitment from other funding sources. By waiting until after the credits have been committed by the department, this strengthens the applicants appeal to other funders. One comment asked for clarification on whether an executed term sheet is required for both the interim and permanent lender?

Department Response: Clarification regarding the term sheets is suggested.

“(ii) bona fide commitment or term sheet for the interim and permanent loans issued by a lending institution or mortgage company...”

§49.9(e)(7)(A) – Threshold Criteria – Public Notification

Comment: Suggestion was made that public notices should only be required in community newspapers in smaller outlying communities instead of in the most widely circulated newspaper in the metropolitan statistical area because the cost in the larger papers is higher and the residents of the smaller community are more likely to read their local newspaper.

Department Response: Based on past experience, the Department is aware that often residents read only one of the two newspapers – local or metropolitan. Requiring the notification to run in both newspapers ensures that all interested residents will have an opportunity to be informed. No changes are proposed.

§49.9(e)(7)(C) – Threshold Criteria – Notification to TxDOT

Comment: Comment was received suggesting that this requirement only be made if TDHCA is able to enter into a Memorandum of Understanding with TxDOT that identifies a contact person at TxDOT responsible for the administration of the requirement and able to timely provide the required documents. If no MOU can be reached, it is suggested that the rural set-aside be exempt from this requirement. However, there was more widespread support for the deletion of this section for the above reasons. Further there was speculation that TxDOT will not issue a letter until a traffic study has been done which could add additional costs to applicants.

Department Response: The Department concurs that this requirement warrants further dialogue, and a potential Memorandum of Understanding, with TxDOT before making it a minimum requirement of all applicants. Deletion of the section is suggested.

~~“(C) Evidence of notification to the Texas Department of Transportation district. Evidence of such notification shall include a letter which, at a minimum, contains the location of the proposed Development, the proposed population being served, a copy of the public notice, and proof of delivery in the form of a certified mail receipt, overnight mail receipt, or confirmation letter from said office. A return letter from the Texas Department of Transportation is also required which describes the transportation options and~~

~~availability for the location of the proposed Development. Proof of notification should not be older than six months from the close of the Application Acceptance Period.”~~

§49.9(e)(7)(E) – Threshold Criteria – Public Housing Authority Waiting List

Comment: Support was voiced for the existing requirement that the owner be required to notify the PHA of unit availability. It was further requested that since some PHA’s have overlapping service areas that all local PHAs be sent this notification; it was recommended that the owner advertise this in newspapers of general circulation. It was suggested that the wording should be revised to read “Section 8 and other tenant-based rental assistance” so that HOME vouchers would also be applicable.

Department Response: Staff does not feel that owners need to advertise their acceptance of Section 8 tenants beyond their existing requirement to notify the public housing authority as the housing authority is the primary referral source for low income voucher holders. Clarification regarding the number of local PHAs is suggested as is the reference to other voucher programs.

“(E) Public Housing Waiting List. Evidence that the Development Owner has committed in writing to the local public housing authority(ies) (PHA) the availability of Units and that the Development Owner agrees to consider households on the PHA’s waiting list as potential tenants and that the Property is available to Section 8 and other tenant-based rental assistance certificate or voucher holders. Evidence of this commitment must include a copy of the Development Owner’s letter to the PHA(s) and proof of delivery in the form of a certified mail receipt, overnight mail receipt, or confirmation letter from said PHA(s). Proof of notification should not be older than six months from the close of the Application Acceptance Period. If no PHA is within the locality of the Development, the Development Owner must utilize the nearest authority or office responsible for administering Section 8 programs.”

§49.9(e)(8) – Threshold Criteria – Ownership Documentation

Comment: In paragraph A, the QAP currently requires an organizational chart for the General Partner. Comment suggested that the QAP should require an organizational chart for the Development Owner (which would include the identification of the ownership and controlling parties for the General Partner) and the Developer. The elements of this organizational chart, if properly defined, should provide the Department with all of the relevant information necessary to identify ownership and control of these two important organizations. Clarification of wording for paragraph (A) was also provided. With the proposed revision to paragraph (A), paragraph (B) can be simplified, and paragraph (C) and (D) should be revised to tie back appropriately throughout the exhibit. Comment seemed to suggest that the documents in this entire section should only be required for those with controlling interests.

In § 49.9(e)(8)(B)(i)(II), comment suggested that the Department would be better served by requiring a name reservation and copies of the draft organizational documents for the entity to be formed (Articles of Incorporation, Articles of Organization, Bylaws, Regulations, Partnership Agreement, etc.) in lieu of the letter of intent to organize. Likewise, improvements were suggested for the documentation requirements for entities that are already formed. Other comment supported better clarifying what is required if an entity is formed, but for less than 3 months.

Department Response: Staff was encouraged by the thorough review and positive suggestions for revision and has included all but one item in the proposed changes. The only revision provided in public comment that is not proposed in the QAP is that the set of organization documents should only be required for those with a controlling interest in the development. The Department needs to know who all of the ownership interests are (including non-controlling interests).

“(8) Evidence of the Development’s proposed ownership structure and the Applicant’s previous experience as described in subparagraphs (A) through (E) of this paragraph.

(A) ~~Charts~~ A chart which clearly illustrates the complete organizational structure of the final proposed Development Owner and of any Developer, ~~that provides~~ providing the names and ownership percentages of all Persons having with an ownership interest in the Development Owner or the

~~Developer, as applicable, whether directly or through one or more subsidiaries. The percentage ownership of all Persons in Control of these entities and sub-entities must also be clearly defined. The Applicant, General Partner and their Principals, along with the proposed Limited Partner should be listed.~~

~~(B) Each entity shown on an organizational chart as described in subparagraph (A) of this paragraph, shall provide The Applicant, General Partner (or Managing Member) and all Persons with an ownership interest in the General Partner (or the Managing Member) of these entities and sub-entities must also provide documentation of standing to include the following documentation, as applicable: under clauses (i) through (iii) of this subparagraph.~~

~~“(i) For entities that are not yet formed but are to be formed either in or outside of the state of Texas:~~

~~(I) a certificate of reservation of the entity name from the Texas Secretary of State and from the state in which the entity is to be formed if different from Texas; and~~

~~(II) an executed letter of intent to organize or a copy of the draft organizational documents for the entity to be formed including Articles of Incorporation, Articles of Organization or Partnership Agreement, statement of partnership or partnership agreement.~~

~~(ii) For existing entities whether formed in or outside of the state of Texas:~~

~~(I) a Certificate of Account Status from the Texas Comptroller of Public Accounts or, if such a Certificate is not available because the entity is newly formed, a statement to such effect; and if the entity has been formed for three months or longer, a copy of the Certificate of Good Standing from the Comptroller showing good standing; if the entity has been formed for less than three months, a certificate of reservation of the entity name from the Texas Secretary of State and from the state in which the entity was formed if different from Texas;~~

~~(II) for entities formed in a state other than Texas, states must also submit a certificate of authority to do business in Texas or an application for a certificate of authority,~~

~~(III) a copy Copies of the entity’s governing documents, including, but not limited to, its of the Articles of Incorporation, Articles of Organization, Certificate of Limited Partnership, Bylaws, Regulations and/or Partnership Agreement.~~

~~(iii) the Applicant must provide evidence that the signer(s) of the Application have the authority to sign on behalf of the Applicant in the form of a corporate resolution or by-laws which indicate same from the sub-entity in Control of the Applicant, and that those persons constitute all persons required to sign or submit such documents. A cover sheet must be placed before the copy of the organizational documents, Articles of Incorporation, Organization or Partnership, identifying the relevant document(s) where the evidence of authority to sign is to be found and specifying exactly where the applicable information exists within the all relevant documents by page number or by section and subsection if the pages are not numbered.~~

~~(C) Each entity shown on an organizational chart as described in subparagraph (A) of this paragraph, shall provide a A copy of the completed and executed “Previous Participation and Background Certification Form.” must be submitted listing each Principal and their affiliates for each Person owning an interest in the General Partner (or, if Applicant is to be a limited liability company, the managing member) of the Applicant. If the developer of the Development is receiving more than 10% of the developer fee, he/she will also be required to submit documents for this exhibit. The 2003 versions of these forms, as required in the Uniform Application, must be submitted. Units of local government are also required to submit this document. The form must include a list of all developments that are, or were, previously under ownership or control of the Applicant and their Affiliates. All participation in any TDHCA funded or monitored activity, including non-housing activities, must be disclosed.”~~

~~(D) If the Development Owner or the Developer or any of their Affiliates shown on the organizational chart as described in subparagraph (A) of this paragraph (other than the Development Owner’s limited partner) Applicant or their Affiliates have, or have had, ownership or control of affordable housing, being housing that receives any form of financing and/or assistance from any unit of Federal, state or local governmental entity for the purpose of enhancing affordability to persons of low or moderate income, outside the state of Texas, then Evidence that each such Persons owning an interest in the General Partner (or if Applicant is to be a limited liability company, the managing member) of the Applicant has have sent “National Previous Participation and Background Certification Form,” to the appropriate Housing Credit Agency for each state in which they have developed or~~

operated affordable housing. This form is only necessary when the Developments involved are outside of the state of Texas. An original form is not required. Evidence of such notification shall be a copy of the form sent to the agency and proof of delivery in the form of a certified mail receipt, overnight mail receipt, or confirmation letter from said agency.”

§49.9(e)(9)(C) – Threshold Criteria – Utility Allowances

Comment: Comment suggested that the language regarding overlapping jurisdictions should revert to the definition in prior years, or be deleted, because if used by compliance in their monitoring, it could be devastating to the feasibility of many properties. It was also suggested that by not allowing applicants to use the data provided by utility providers we may be violating federal law. It was further suggested that a round table be formed to look at this problem and create a solution that is more workable for all parties.

Department Response: The Department is also concerned that the proposed language may have a negative impact on the feasibility of existing properties. Therefore, for 2003 the Department will utilize the language used in 2002. However, because this language is a challenge for compliance monitoring purposes, the Department intends to establish a working group to develop a more satisfactory solution for 2004. This language was also adjusted in §49.19(t) relating to compliance.

“(C) Applicant must provide documentation from the source of the “Utility Allowance” estimate used in completing the Rent Schedule provided in the Application. This exhibit must clearly indicate which utility costs are included in the estimate. If there is more than one entity (Section 8 administrator, public housing authority) responsible for setting the utility allowance(s) in the area of the Development location, then the Utility Allowance selected must be the one which most closely reflects the actual utility costs in that Development area. In this case, documentation from the local utility provider supporting the selection must be provided. In the event of overlapping jurisdiction between local housing authorities, the utility allowance for the building must be based on where the Development property is located according to the Development’s legal description.”

§49.9(e)(9)(D)(ii) – Threshold Criteria – Occupied Developments

Comment: Comment suggested that it was unclear what was intended by the statement: "and consult with the tenants in preparing the application."

Department Response: §2306.6705 of Texas Government Code requires that, “a written explanation of the process used to notify and consult with the tenants in preparing the application,” is submitted. Neither the legislation, nor the Department, has a specific requirement as to what level of consultation with tenants is necessary, but merely that the applicant inform the Department of any consultation that they have had. No changes are proposed.

§49.9(e)(10) – Threshold Criteria – Nonprofit Exhibit

Comment: In order to better protect their assets, it is common for nonprofit organizations that are participating in tax credit projects as General Partners to form wholly-owned subsidiaries to take those roles. The subsidiaries may be nonprofit organizations themselves or, more typically, they may be for-profit organizations such as limited liability companies. This should be contemplated and permitted in this section. If a wholly-owned subsidiary is to be used, the parent nonprofit organization should provide copies of its governing documents and the governing documents of the subsidiary. It was also noted that in (e)(10)(B) the QAP requires documents from the “Development Owner and each General Partner of a Development Owner,” although the information requested relates solely to the nonprofit organization and does not relate to the Development Owner or any other General Partner that is not a nonprofit organization.

Department Response: Regarding the suggestion that wholly owned subsidiaries of nonprofits should be permitted in this section it was unclear whether the comment was asking for these groups to be obligated to provide additional information or if special status was being requested. In either case, staff feels that additional time and research would be needed before adjusting this exhibit because this exhibit is related both to Internal Revenue Code requirements as well as Texas Government Code requirements. Additional research will be carried out for 2004. The clarifying language was integrated into the exhibit. Staff also deleted clause (v)

because the required list is actually a requirement that has been incorporated into the Nonprofit Participation exhibit required under §49.9(10)(A)(iii) and as included in the Uniform Application.

“(B) Additionally, all Applicants applying under the Nonprofit Set-Aside, established under §49.7(b)(1) of this title, must also provide the following information with respect to the Qualified Nonprofit Organization ~~each Development Owner and each General Partner of a Development Owner~~, as described in clauses (i) through (vi) of this subparagraph.”

~~“(v) a list of the names and home addresses of members of the board of directors of the nonprofit organization; and”~~

§49.9(e)(13)(B) – Threshold Criteria – Market Study

Comment: Comment was received suggesting that when the Underwriting Department utilizes its own information in lieu of the information in the market study, that the applicants should be notified of that replacement. There was also substantial support for the following: In the event of a disagreement between the market analyst and the department’s interpretation of the market, an independent third party binding arbitration review should be used to settle the issue because it is the only unbiased resolution to the conflicting views that may be involved. One comment suggested that “developer” be replaced by “Development Owner” as the Development Owner is the proper party to incur these costs.

Department Response: The Department is obligated to satisfy itself that the documentation provided in market studies is accurate. There are instances where the input from two different market studies for the same market shed different results. Therefore, the Department needs the flexibility to request that a subsequent market study be provided by an independent market analyst to satisfy a thorough review. In events where an independent market analyst is not used, the Department is still responsible for challenging the information provided in the market studies. The Department does not support the use of independent third party binding arbitration for this reason, as well as for the administrative technicalities and time constraints involved in administering this type of process. The clarification regarding terminology is suggested.

“A comprehensive Market Study prepared at the Development Owner’s ~~developer’s~~ expense by a disinterested Qualified Market Analyst in accordance with the Market Analysis Rules and Guidelines.”

§49.9(f) – Selection Criteria – Points for At-Risk and Elderly (Not in 2003 draft)

Comment: There was broad support for having removed points for at-risk and elderly. Comment concurred that the set-asides adequately target development for these categories of need and to allow points could cause oversaturation. However, there was extensive comment indicating that to balance the removal of the elderly points, the points should be removed for units housing individuals with children. If the family points are not removed, then comment would suggest that the elderly points are reinstated because the regional allocation process would result in family deals scoring higher, and receiving an unfair advantage, than elderly developments regardless of local market need. There was some comment supporting the utilization of points for elderly developments because the set-aside alone is insufficient to meet the needs of the growing elderly population on fixed incomes.

Department Response: The Department has made a policy decision that points will not be given for categories for which a set-aside also exists. In that light, no changes are recommended for this section. It should be noted that later in this memo, the Department recommends the removal of points for units housing individuals with children.

§49.9(f) – Selection Criteria – Mixed Income Points (Not in 2003 draft)

Comment: Extensive support was received for reinstating points for mixed-income developments, although comment was equally opposed to the language in the 2002 QAP that required market rents to be 110% higher than the LIHTC maximum rents and requiring the units to rent at 105% of the LIHTC maximum rent. By allowing applicants to get points for these units, applicants give up credits which allow TDHCA to allocate those credits elsewhere. Likewise, families who may make too much may be attracted to the supportive service

packages at a development and this allows them to lease. As long as the market study justifies the rents to be obtained, the Department should not need to impose additional calculations assessing the viability. Comment states that the mixed income projects have an important public purpose in that they reduce the concentration of low-income people and provide social benefit. They are often preferred by local governments and neighborhoods for this reason. Mixed income transactions can be complex and likely will not be done without a point-driven incentive in the QAP. The 2002 differential requirement was confusing and involved subjective evaluation of the market study. Underwriters for investors require the units to be underwritten at 60% AMGI rent levels so requiring a higher differential is not relative to the actual evaluation taking place in the market. While most suggestions referred to the 2002 point values for the reinstatement, one suggestion was to provide only 1 point for each 5% increment of total units set aside for market rate, up to 20% of the total number of units.

Department Response: The Department concurs that the mixed-income points should be reinstated. Staff does not recommend that an evaluation of the market study be required as different market studies support different information for identical market which bring in quite a bit of subjectivity to the review.

"The Development is a mixed-income Development comprised of both market rate Units and qualified tax credit Units. Points will be awarded to Development's with a Unit based Applicable Fraction which is no greater than:

- (i) 80% (8 points); or,
- (ii) 85% (6 points); or,
- (iii) 90% (4 points); or
- (iv) 95% (2 points)."

§49.9(f) – Selection Criteria – Other Suggestions not Currently in the QAP

Comment: One comment suggested that perhaps TDHCA should reinstate the density points, but there was also broad support for having removed the density points. There were also a series of comments requesting that point criteria be added that are not currently in the draft 2003 QAP. These suggestions include points for:

- Having excellent compliance records (specific language was provided).
- Developing adaptive reuse of surplus government buildings (hospitals, hotels, dormitories, schools).
- Having experience, as determined by the number of units placed in service or with 8609 forms.
- Having a 1.15 debt coverage ratio.
- Closing on the construction loan and starting construction by December 2003.
- Providing improved energy efficiency above and beyond the threshold.
- Providing reductions in maintenance and upkeep costs through the use of alternative building materials and techniques.
- Exceeding the storm and fire safety standards outlined in the building code.
- Having a General partner that is headquartered in Texas and has been a Texas resident for at least 3 years.
- Having desirable site features including site readiness (zoning, utilities, paved access) and favorable location near amenities.
- Having a location in the downtown of a large city or county, or in a part of the community that currently lacks affordable housing for the workforce in that area, or in an area generally recognized as unsuitable for families but with a need for affordable housing or in an area offering multiple job opportunities and transit.
- It was also suggested that significant negative points be given for several years to any developer who violates the \$1.6 million cap.

Department Response: Staff was pleased with many of the suggestions that were made for new scoring categories. However, in the interest of ensuring adequate public input in the rulemaking process, the Department does not recommend making any new additions to the selection criteria that were not either part of the 2002 QAP, or part of the draft 2003 QAP, as the public will not have had adequate time to respond to the suggested selection criteria. The list of suggestions will be considered in drafting the 2004 QAP.

§49.9(f)(1)(A-D) – Selection Criteria – Development Location

Comment: Comment indicated that for those criteria relating to enterprise communities, TIFs and PIDs, a two-tier selection criteria should be established for those regions dominated by large MSAs because smaller counties that share a region with dominating MSAs are less likely to receive credits. It was also suggested that the exhibits be deleted. Separate comment, also relating to TIFs and PIDs (Clause C), indicated that the requirement to have the development receive significant incentive or benefit from the local government is both costly and very subjective to evaluate. The intent of the requirement originally was so that a developer would not go and have a city create a district solely for the benefit of the development. However, by keeping the requirement relating to the letter from the city, the intent is still satisfied and the subjectivity is removed from the exhibit. So it is suggested that the financial incentive is deleted.

There was strong support for having deleted the QCT points, although there was also strong support to reinstate the DDA points. Some limited comment opposed the deletion of points for QCTs, suggesting that by removing the points the department may not be adhering to the federal requirement to give preference to QCTs. One other opponent to the removal of QCT points suggested that some QCTs still have no tax credit developments so perhaps points should be given only for QCTs that have no existing tax credit developments. Another comment suggested amending this section by adding that these areas are only (TTCs, EDAs, Colonias, and Young v. Martinez) acceptable for the purposes of awarding points, if there are applications that are denied these points and if the applicable rental rates will warrant economic success of the development.

Department Response: The Department feels that it is a good policy to encourage development in those areas that have been designated specifically for development and revitalization, specifically TIFs, PIDs, and enterprise/empowerment communities. While TIFs and PIDs are somewhat more prevalent in metropolitan areas, clause (C) also awards points for any other “area or zone where a city or county has, through a local government initiative, specifically encouraged or channeled growth, neighborhood preservation or redevelopment,” which is just as likely to occur in a rural community as in a metropolitan community. Likewise, enterprise communities exist in both rural and metropolitan areas. Staff does not recommend creating two-tier system of selection review at this time. Staff does recommend the removal of the somewhat subjective and difficult to achieve requirement relating to obtaining incentives or benefits valued at 5% of the Total Development Costs. The 5% requirement was also more onerous for rural or small communities that have an “area or zone ...encouraging or channeling growth. Staff also concurred with reinstating the points for DDAs which were inadvertently deleted when drafting the QAP. Staff has thoroughly researched the language in §42 of the Internal Revenue Code which merely requires a “preference” be given for QCTs. While points were removed for location in a QCT, an evaluation factor (tie breaker) was added for location in a QCT, thereby still serving as a preference. Staff is confident that this §42 requirement is not being violated by removing these points. No other changes are proposed.

(A) A geographical area which is:

(i) a Targeted Texas County (TTC) or Economically Distressed Area; or

(ii) a Colonia, or

(iii) a Difficult Development Area (DDA) as specifically designated by the Secretary of

HUD.

“(C) a city-sponsored Tax Increment Financing Zone (TIF), Public Improvement District (PIDs), or other area or zone where a city or county has, through a local government initiative, specifically encouraged or channeled growth, neighborhood preservation or redevelopment. ~~Significant incentives or benefits must be received from the local government which amount to at least 5% of the Total Development Costs.~~ Such Developments must submit all of the following documentation: a letter from a city/county official verifying that the proposed Development is located within the city sponsored zone or district; a map from the city/county official which clearly delineates the boundaries of the district; and a certified copy of the appropriate resolution or documentation from the mayor, local city council, county judge, or county commissioners court which documents that the designated area was:

(i) created by the local city council/county commission, and

(ii) targets a specific geographic area which was not created solely for the benefit of the Applicant, and
~~(iii) offers tangible and significant area-specific incentives or benefit over and above those normally provided by the city or county.”~~

§49.9(f)(1)(E) – Selection Criteria – Development Ratio

Comment: Comment suggested that the ratio should be separated between new construction and rehabilitation and between elderly and family in order to diversify a community. Any award older than 5 years should not be included in the ratio. No points should be deducted in this section.

Department Response: The Department is aware that it is preferable to refine this scoring criteria to the level of generating ratios based on new construction vs. rehabilitation and elderly vs. family. However, at this time the compilation of data is not readily available in a format that would permit this type of analysis. Additionally, because the ratio involves population figures, the elderly/family split would involve not only improvement to the tax credit development data source, but also the adjustment of the calculation based on the populations for each of those groups. The Department feels that, even without the further level of classification, this exhibit accurately incentivizes applicants not to concentration of too many low income families in one area. No change is proposed.

§49.9(f)(2) – Selection Criteria – Affordable Housing Needs Score

Comment: Comment was received that the proposed needs score, as generated by the Housing Resource Center, penalizes all the major Texas cities such as Dallas, San Antonio, Houston and Austin, compared to suburbs, by deducting 5 points from each city’s score. TDHCA should reinstate these 5 points because the most demand is concentrated in these areas. Other comment was received suggesting that the needs score be deleted entirely from the QAP because the 2003 scores are inaccurate because it makes the incorrect assumption that people with affordable housing needs lives and work in the same community. Likewise, support was provided for keeping the 5 point deduction for cities that have received an award in the past two years because it encourages the dispersion of properties across the state.

Department Response: While the calculation of the Affordable Housing Needs Score, and the five point deduction, are not actually part of the QAP itself, the Department believes that the 5 point deduction will be successful in working towards dispersing properties intraregionally. No changes are proposed.

§49.9(f)(3) – Selection Criteria – Support Letters

Comment: Comment suggested that asking for letters is disruptive to communities and divides community support, causing the public to have a negative view of affordable housing. It was requested that, at a minimum, points be removed for federal representatives and senators. One comment pointed out that the cycle is overlapping with elections and that the QAP should specify whose letters should the applicants get: the existing officials who may not be in office by January or the new electees who may be hard to track down in January for a February submission?

Department Response: The use of a selection criteria that rewards applicants for having written support from local and state officials is required under §2306.6710 of the Texas Government Code. Therefore, the Department can not remove this requirement. The Department made an effort to provide a “laundry list” of potential points for applicants and that to be comprehensive this includes points from elected federal officials. A minor adjustment to points is suggested and a clarification added to clause (iii). The Department does not propose revising the QAP to address elections, but staff will be flexible in reviewing these points as long as the elected official was, or is, the appropriate official for the jurisdiction.

- (i) from United States Representative or Senate Member (3 points each, maximum of 6 points)
- (ii) from State of Texas Representative or Senate Member (~~23~~ points each, maximum of ~~46~~ points);
- (iii) from the Mayor, County Judge, City Council Member, or County Commissioner indicating support; or a resolution from the local governing entity indicating support of the Development (maximum of 2 points);
- (iv) from neighborhood and/or community civic organizations (1 point each, maximum of 2 points).

§49.9(f)(4)(B) – Selection Criteria – Family Development Points

Comment: As mentioned earlier in the memorandum, there was extensive comment indicating that to balance the removal of the elderly points, these points should be removed. If the family points are not removed, then comment would suggest that the elderly points are reinstated because the regional allocation process would result in family deals scoring higher, and receiving an unfair advantage, than elderly developments regardless of local market need. Comment was received indicating that points for families are geared primarily to suburban developments, as families tend not to prefer living in the central city, so this is somewhat biased and some type of compensation should be made for downtown developments.

Department Response: The Department has made a policy decision that points will not be given for categories for which a set-aside also exists, specifically the elderly set-aside. Furthermore, staff recommends elsewhere in this memorandum that 4-bedroom units be permitted in tax credit developments. The removal of “family” points thereby removes any incentive to do 4-bedroom units meaning that any 4-bedroom units proposed are truly based on market demand. Based on these other policy recommendations, and public comment regarding the family development points, staff recommends the deletion of this exhibit.

~~(B) Development provides Units for housing individuals with children. To qualify for these points, these Units must have at least 2 bathrooms and no fewer than three bedrooms and at least 1000 square feet of net rentable area for three bedroom Units or 1200 square feet of net rentable area for four bedroom Units; these Unit size and bathroom requirements are not required for Developments involving rehabilitation to be eligible for the points below. Unless the building is served by an elevator, 3 or 4 bedroom Units located above the building’s second floor will not qualify for these points. If the Development is a mixed-income development, only tax credit Units will be used in computing the percentage of qualified Units for this selection item.~~

~~(i) 15% of the Units in the Development are three or four bedrooms (5 points); and~~

~~(ii) an additional point will be awarded for each additional 5% increment of Units that are three or four bedrooms up to 30% of the Units (a maximum of three points) (3 points).~~

§49.9(f)(4)(C) – Selection Criteria – Cost per Square Foot

Comment: The reference to Exhibit 102 is an improper cross-reference now that the Exhibit numbering has been removed.

Department Response: Correction is recommended.

“(C) Cost per Square Foot. For this exhibit hard costs shall be defined as construction costs, including site work, contractor profit, overhead and general requirements, as represented in the Development Cost Schedule Exhibit 102B. This calculation does not include indirect construction costs. The calculation will be hard costs per square foot of net rentable area (NRA). The calculations will be based on the hard cost listed in the Development Cost Schedule Exhibit 102B and NRA shown in the Rent Schedule of the Application. Developments do not exceed \$60 per square foot. (1 point).”

§49.9(f)(4)(D) – Selection Criteria – Unit Amenities and Quality

Comment: It was suggested that the following should be added to the amenity list: provision of microwave, provision of plumbing for a refrigerator icemaker and, provision of ceiling fans in bedrooms and living areas. It was also suggested that masonry includes stucco. A similar comment suggested that the Department reconsider the use of hardiplank for points; possibly with stone accent. Comment was also received that we should give amenity points for using gas heat and appliances, or a combination of gas and electric appliances, instead of only electric because it saves the tenant money in the long run even though the initial costs for the developer are higher. Points for tile in the entry way, kitchen and bathroom should also include terrazzo flooring as an option since it provides all the benefits of tile but is more durable. It was suggested that more points should be given for quality long-term construction materials such as longer roof-life warranty or concrete driveways instead of asphalt; other suggestions included 9-foot ceilings and the use of alternative energy efficient materials. There was also support for reinstating the lighting package and kitchen package amenities from the 2002 QAP.

Department Response: The Department does not feel that microwaves or icemaker plumbing are adequate amenities comparable with the other amenities on the list. Ceiling fans are already required in threshold as one of the energy saving devices and so points should not be awarded for them. The Department does not agree that masonry includes stucco – stucco is a much cheaper construction material and according the costing methodology used by the department is not considered to be masonry. Likewise, hardiplank is not classified as masonry. While in some areas gas may be cheaper for tenants, in other areas gas may not be an option at all. Therefore, developments in those areas without an option (often rural areas) would be unfairly disadvantaged. As far as the Department is concerned terrazzo is a type of tile, but does not feel that the QAP needs to detail to that level the exact types of tile that are acceptable. The suggestions of new items warrant consideration, but as commented earlier, the Department does not propose adding any new selection criteria that were not a part of the 2002 or 2003 draft QAP in the interest of assuring adequate public input. These proposed items will be considered as selection criteria are drafted for the 2004 QAP. Staff removed the Lighting and Kitchen Packages from the 2002 draft because they are generally accepted as part of construction and from a cost perspective do not compare to the other point-based amenities on the list. No changes are proposed.

§49.9(f)(4)(F) – Selection Criteria – Operating Reserves

Comment: There was very strong support for deleting these points as the level of appropriate operating reserves will, and should be, dictated by those investing and/or lending to the development, and is an issue that is best evaluated by the Department as a component of underwriting. Furthermore, because point-based criteria are integrated into the LURA, there are a myriad of questions that would warrant resolution before this exhibit should be retained: is the reserve a one time funded amount? How long will it be held? Who monitors this and what are the penalties of noncompliance? What are eligible uses for the funds? Is this in addition to the lender and/or syndicator reserves? It was suggested that the points be removed and that instead the Department should ensure that each development is underwritten at a minimum of three months of operating expenses plus hard debt service. Very minimal support was provided for these points: one comment suggested increasing the points for this item and other comments suggested that the reserve per unit should be raised to \$2,000, or at least \$250. Another alternative suggestion was to give points for additional dollars added to the replacement reserve account with the lender, or for a separate long term maintenance reserve, while another suggestion was that it might make more sense to have a number of months of operating costs plus debt service.

Department Response: The Department concurs that this exhibit should be removed from the 2003 QAP. While there may be merit to providing points for some type of reserve, the many comment and questions emphasize that the exhibit needs substantial revision and research to ensure that it is feasible and enforceable. This will be further investigated for 2004. For 2003, the Underwriting Guidelines require that operating budgets are underwritten with \$200 per unit for new construction and \$300 per unit for rehabilitation developments. It additionally requires that an operating reserve be included in the development budget showing at least 3 months of operating expenses less management fees plus debt service.

~~“(F) The proposed Development will support the future quality of the Development by including operating reserves in an amount no less than \$300 per Unit for Developments involving rehabilitation and no less than \$200 per Unit for Developments involving new construction. The operating reserve figure must be reflected in the Development’s operating budget and proforma. The Development must not only book the reserves but also have the cash deposits to support the reserves. (6 points).”~~

§49.9(f)(4)(H) – Selection Criteria – Small Developments

Comment: Comment was received questioning why the Department gives points for small developments. If this was intended to be a score boost for rural deals, it is arbitrary because a specific number of units can not adequately address what is supportable by the market. The exhibit either encourages more units than are supportable or keeps developments from achieving optimum economies of scale, therefore the exhibit should be deleted.

Department Response: The small development points were created to encourage dispersion within a city and reduce concentration of low income tenants. The points help to incentivize applicants to develop small developments in spite of the higher costs associated with their development. No change is proposed.

§49.9(f)(4)(I) – Selection Criteria – HOPE VI, 202 and 811

Comment: Comment was received advocating that the LIHTC program adhere to the Department’s integration policy and only give points to 811 developments that support integrated settings where people with disabilities live with people without disabilities. It was noted that the deadlines for HOPE VI grants this year are due on December 6, 2002 and that this may make it difficult to have appropriate evidence that the application was timely filed with HUD. It was suggested that points should also be awarded if the development has a Community Development Block Grant or project-based vouchers from HUD. Another suggestion recommend adding the HOME Program to the list. Another comment suggesting adding points for large contributions of at least \$500,000 from local community funding – this should replace the requirement of needing a subsidy for the low income targeting exhibit. There was also a suggestion to require proof of award/commitment of Section 202, Section 811, and HOME at the time of application, not merely proof of application, while HOPE VI should only need proof of application. Another comment asked that the Department clarify what occurs if the Development applies for the funds and, subsequent to the Application but before the allocation, HUD advises that the funds will not be awarded, since actual commitment are not required.

Department Response: In light of the legislative requirement at §2306.6710(b)(1)(G) to give points for the commitment of funds to better enable developments to serve lower income families, the Department concurs with expanding this exhibit to include the other suggested funding sources including Community Development Block Grants, project-based Section 8 vouchers from HUD, and HOME awards. It should be noted that later in this memorandum the deletion of the subsidy requirement for low income targeting is recommended. The suggestion in 2002 that the subsidy is required by legislation is similarly satisfied by a separate award of points for subsidy as proposed on this exhibit. The LIHTC Program strives to adhere to the integration policy, and has proposed a revision to this section to further support that effort. The documentation required to prove that a HOPE VI grant application was submitted is a letter from HUD indicating that the application was received. With a deadline for the grant of December 6, and a LIHTC deadline for evidence of this not until February 28, almost three months are available for a receipt to be obtained, which is more than adequate time.(15) While staff understands the concerns regarding applications that have been submitted, but not yet awarded, at the time of tax credit application, the Department still feels that an application, as a costly and time-consuming effort, is an excellent good-faith effort to obtain funds and that to accommodate varied application cycles of other entities, the existing language should remain. However, staff has clarified in the exhibit when funding must be received and what will occur if funding is not ultimately awarded.

“(I) Evidence that the proposed Development is partially funded by a HOPE VI, Section 202 or Section 811 grant or project-based Section 8 voucher from HUD; or a Community Development Block Grant or HOME award. If the proposed Development involves a Section 811 grant the Applicant must provide evidence that the Development will comply with the Department’s definition of Integrated Housing. The Development must have already applied for funding from HUD the funding entity. Evidence shall include a copy of the application to the funding entity HUD and a letter from the funding entity HUD indicating that the application was received. Notice of actual commitment must be received consistent with §49.9(e)(6)(D)(iii). In the event that an award is not made by the funding entity, the Department will reevaluate the Application to ensure its continued financial feasibility (5 points).”

§49.9(f)(4)(J) – Selection Criteria – PHA Rehabilitation

Comment: Many comments were received in opposition to the PHA points and suggesting their removal. Some comment pointed out that by giving 5 points to PHAs (in addition to the HOPE VI funding points) for doing rehabilitation on units that are already affordable, and not at risk of losing their affordability, the Department is taking away scarce resources from developments that could actually be at risk of losing affordability or that are existing market rate developments. TDHCA would be putting money into units that already are, and will be, affordable, and not producing new affordable units. Opposition to the points also indicated that the tax credit program has historically been a “private sector” funding source that has been successful because it does not put credits into the hands of “inefficient” public sector entities who have to

adhere to more onerous bidding, procurement and labor regulations. Another argument suggests that PHAs can qualify under the nonprofit set-aside and therefore should not also be able to get points. It was pointed out that only metropolitan PHAs have the sophistication and expertise to participate in the LIHTC program so these points would be difficult to obtain for rural PHAs. It was also commented that PHAs already have numerous other pools of funds to draw from that in many instances are specifically limited too PHAs only and that extra points to help them also access credits should not be given to them. It was suggested that if these points are retained they should be added into paragraph, Sponsor Characteristics, as another alternative to HUB or Joint Venture status.

Alternatively, there was also support for keeping the PHA points. It was noted that PHAs do not qualify for the nonprofit set-aside and are not able to gain that advantage, particularly as defined by the Internal Revenue Service. Support indicated that PHAs help serve the lower income families and TDHCA is tasked with also trying to better serve those families.

Other suggested changes included the suggestion that Housing Finance Agencies should be added to this pool of points in addition to PHAs. If HFAs are not included, language should make it clear that PHAs do not include HFAs. It was also suggested that new construction should also get points. Another comment was that PHAs are often faced with demolition due to poor design flaws and obsolete structures, and therefore rehabilitation is not always an option. PHAs requested that the points be available for replacement housing that is located either on or off-site. PHAs also noted that the language indicating that the units “will continue to be owned” by the PHA is inaccurate because the limited partnership will actually own the development and this language may not rest well with equity providers. Proposed language is:

Department Response: The Department, as a policy, is trying to increase collaboration with Public Housing Authorities. Staff concurs with the interpretation that PHAs are not eligible for the nonprofit set-aside and therefore do not already garner any special standing. Furthermore, PHAs offer an excellent opportunity for the Department to reach the lower income families across the state. and therefore staff recommends retaining this exhibit. However, to assuage some of the opposition to the exhibit staff suggests adding it to paragraph (5), Sponsor Characteristics, as option (C), thereby reducing it to a 3 point value. Staff also suggests making the clarification regarding replacement of existing housing to accommodate the reality of development for PHAs. Clarification regarding Housing Finance Agencies is also provided to show that they are not included in this item.

“(5) Sponsor Characteristics. Developments may only receive points for one of the three two criteria listed in subparagraphs (A) through (C) and (B) of this paragraph. To satisfy the requirements of subparagraphs (A) or (B) of this paragraph, a copy of an agreement between the two partnering entities must be provided which shows that the nonprofit organization or HUB will hold an ownership interest in and materially participate (within the meaning of the Code §469(h)) in the development and operation of the Development throughout the Compliance Period and clearly identifies the ownership percentages of all parties (3 points maximum for subparagraphs (A) through (C) and (B) of this paragraph).

(C) The proposed Development involves the rehabilitation of existing Units, or on-or off-site replacement of units that are, and will continue to be, owned by a Public Housing Authority and which Units or replacement Units will continue to be owned by a partnership Controlled by said Public Housing Authority or its nonprofit affiliate as evidenced by a partnership agreement showing the Control by the said Public Housing Authority. A Housing Finance Agency is not considered to be a Public Housing Authority for purposes of this exhibit. or a nonprofit entity controlled by a Public Housing Authority (5 points.)”

§49.9(f)(5) – Selection Criteria - Joint Ventures and HUBs

Comment: Support was given for keeping the joint venture and HUB points as currently drafted. One comment suggested that joint ventures with nonprofits should only get the points if the nonprofit has control of the project. It was suggested that the PHA points should be moved to this section and act as another alternative – you can get points as a joint venture, as a partner with a PHA or as a HUB. There was also broad support for

adding another category to reward successful nonprofits for solid performance history by giving points to Qualified Nonprofit Organizations.

Department Response: As noted earlier in this memorandum, the PHA points have been relocated to this section and the draft language has already been presented. While staff understands the arguments made for adding points for Qualified Nonprofits, the Department has made a policy decision that points will not be given for categories for which a set-aside also exists, in this case the nonprofit set-aside. This policy is being implemented consistently throughout the QAP; therefore staff recommends no changes.

§49.9(f)(6) – Selection Criteria – Supportive Services

Comment: Comment was received advocating for a separation of supportive services from housing provision. Receipt of services should not have to be tied to living in a particular type of housing – in particular a disabled person should not be required to live in a group home or disability-only housing to garner services. Therefore, TDHCA should put its emphasis on housing and let other agencies deal with supportive services. Other comments lent substantial support to the proposed revisions to this section for giving flexibility to applicants in their provision of supportive services and for promoting simplification. One proposal suggested an increase in the number of services that are required to get a full six points. The proposal suggested 2 points for 2 services, 4 points for 4 services or 6 points for six services. This would ensure that applicants are rewarded for their dedication to an extensive supportive service package. There was wide support for adding two other service options: senior meal program; home-delivered meal program. There was minimal opposition to the proposed language suggesting that the applicant still be required to have some sort of contract in place at the time of Application to show that the Applicant has carefully thought through the role of social services for its project and has considered the various types and costs of social service providers as part of its overall plan. It was also noted that the LURA should be flexible as to the identification of the social services to be provided so that they can change over time if necessary to meet the needs of the tenants.

Department Response: While the Department acknowledges the challenges faced by the disability community in separating housing from services, staff would like to emphasize that the supportive service packages for the LIHTC Program are entirely voluntary to tenants. There is no requirement that tenants must ever participate in the supportive services; they are merely there as an added value to tenants if they desire to participate. Staff appreciates the suggestion to increase the services that should be associated with each number of points, however for 2003 staff recommends leaving the points as drafted to “test” it prior to adjusting points. The two service options suggested were added to the list. This exhibit, as revised, was crafted specifically to provide flexibility to the development (and in the LURA) and to allow the services to be customized for the residents in the development over time. In addition we understand that many non-profits are unwilling or unable to commit services to a development for the affordability period or that owners may want to replace their service provider. Staff feels that a contract would limit this flexibility. Staff will ensure that the LURA contains language that allows the flexibility to change the mix of services offered to the residents.

“(ii) Service options include child care; transportation; basic adult education; legal assistance; counseling services; GED preparation; English as a second language classes; vocational training; home buyer education; credit counseling; financial planning assistance or courses; health screening services; health and nutritional courses; youth programs; scholastic tutoring; social events and activities; senior meal program; home-delivered meal program; community gardens or computer facilities; any other program described under Title IV-A of the Social Security Act (42 U.S.C. §§ 601 et seq.) which enables children to be cared for in their homes or the homes of relatives; ends the dependence of needy families on government benefits by promoting job preparation, work and marriage; prevents and reduces the incidence of out-of wedlock pregnancies; and encourages the formation and maintenance of two-parent families; or any other services approved in writing by the Department.”

§49.9(f)(7)(E) – Selection Criteria – Transitional Housing

Comment: Comment was received suggesting that the Department’s existing approach to transitional points, in which the Department requires that 100% of the units be transitional, needs to be improved. The

Department should give points for doing 20% or 30% of a Development's units as transitional units, still accompanied by enriched supportive services. As it relates to the required "adequate additional income source and executed guarantee" it was commented that it is unlikely that a Development will have an executed guarantee, at this preliminary stage.

Department Response: The Department concurs that the transitional housing selection criteria may need to be revisited. However, staff feels that more extensive research is required to identify the implications of changes and consider the approach that other states are taking on this issue with the intention of making a recommendation for the 2004 QAP. Clarification on the guarantee was provided.

"(E) adequate additional income source ~~and executed guarantee~~ to supplement any anticipated operating and funding gaps (15 points)."

§49.9(f)(8)(A) – Selection Criteria – Low Income Targeting (Type A)

Comment: There was substantial opposition to this exhibit and it was suggested that it should be deleted because it would be difficult, costly, and labor-intensive to monitor and is duplicative of the goal of §49.9(f)(8)(B), which references the other low income targeting exhibit. It was also suggested that these points will shift the competitive advantage to larger cities that have higher rent limits and lower building costs. Opposition also suggested that by rewarding developments that lower rents under the maximums, the Department is creating a need for more credits and thereby undermining the goal of allocating no more credits than are needed. Conversely, comment strongly supported the concept behind this exhibit. It was requested that clarification be provided as to whether the "maximum tax credit rents" only refer to the 60% rents, or the maximum rent for each specific level of AMGI (30%, 40%, 50% and 60%). It was also suggested that the exhibit be expanded to make a downward adjustment to points for areas where the median income is above the state median income to reduce the rent burden, increase the number of households to qualify and provide point balance so that areas with higher area median incomes are not given too much advantage. Another comment asked for clarification as to whether the referenced rent levels were intended to apply during the Compliance Period and the Extended Use Period in the same manner as described in §49.9(f)(8)(B).

Department Response: Staff feels that this exhibit allows for an innovative approach to providing affordable housing; in large metropolitan areas where maximum tax credit rents can still be somewhat expensive, this exhibit finds a way to make those rents just a little bit lower. Staff does not feel that this exhibit is duplicative, but rather an alternative solution, and does not recommend adjusting the points. Staff also foresees that this exhibit may assist smaller communities that fall within a metropolitan area that, because of market rents, are unable to reach the maximum tax credit rents for their metropolitan area. They would already be setting their rents at some percentage below the maximum tax credit rents and would therefore be eligible for these points. Clarification regarding the "maximum tax credit rents" and the period for which the rents apply is provided.

"(A) Applicants will be eligible for points for serving tenants with rents below the maximum tax credit rents for each level of AMGI represented in the Rent Schedule (30%, 40%, 50%, 60%) for only one of the clauses listed in this subparagraph. The calculation for these points will be made based on the figures provided in the Rent Schedule submitted with the Application. All representations and commitments made will be reflected in the LURA. The Development Owner, upon making a selection for this exhibit, will maintain the Units at the selected reduced rents continuously over the compliance and extended use period as specified in the LURA. For purposes of compliance with these representations, Units rented to Section 8 voucher holders are excluded, unless the actual rent charged for such Units, as opposed to the tenant contribution, meets the requirement:

- (i) All low income rents are 5% less than the maximum tax credit rents (4 points); or
- (ii) All low income rents are 10% less than the maximum tax credit rents (8 points); or
- (iii) All low income rents are 15% less than the maximum tax credit rents (12 points)."

§49.9(f)(8)(B) – Selection Criteria – Low Income Targeting (Type B)

Comment: This exhibit warranted extensive public comment that has been categorized for simplification. A Department Response has been provided for each item.

I. Points

Comment was received indicating that the QAP gives far too many points for low income targeting at 30% and 40% of AMGI. The points should be reduced due to lack of available sources for soft funds and because the exhibit is unfairly biased towards larger cities with higher area median incomes. Comment also suggested that smaller size developments will have more difficulty serving the lower levels of AMGI and will not be able to compete under this formula because smaller developments have a higher per unit operating cost because of limited economies of scale. Smaller developments should be favored to complement the department's efforts to minimize concentration, therefore, it is recommended that more points be given for small developments or that small projects have a higher scale for the weighting number in the formula. Finally, the National Association of Home Builders has indicated their support of adjusting weighting by AMGI level, as proposed in the draft, to address the inequities of doing deep targeting in poorer communities, although they also feel that there is a conflict - by giving more points to the poorer areas we are concentrating in the poorest areas.

Department Response: Staff supports reducing the points for this exhibit as this QAP goes out for a "test run" and to minimize any potential negative impacts on rural areas and/or small developments, although it still supports keeping the two weighting categories. Emphasis was also added in the table that for purposes of calculations in this table low income units refers only to the "targeted" units in this exhibit and does not include units at 60% of AMGI.

% of AMGI	# of Rent Restricted Units (a)	Portion of Rent Restricted Units (a/b)	Weight A	OR	Weight B	Points
50%	(a)	(c)	X 405		1510	
40%	(a)	(c)	X 2515		3020	
30%	(a)	(c)	X 5030		6040	
TOTAL LI TARGETED UNITS* (b)					TOTAL POINTS =	
*Excludes Units at 60% of AMGI						

II. Set Aside Caps

Comment strongly supported lowering the cap placed on the percentage of units that can be set aside for purposes of earning points as this further concentrates poorer families. It was suggested that instead of saying, as currently drafted, that no more than 50% of the total low income units can be set aside at 40% of AMGI or lower, it should be adjusted to say that no more than 50% of the low income units can be set aside at 50% of AMGI or lower. There were similar suggested caps for 40% of AMGI, suggesting that the number of units at 40% of AMGI or lower should be capped at either 30%, 20% or 10% of the low income units. Caps were also suggested for 30% of AMGI suggesting that the number of units at 30% of AMGI be capped at either 20% or 10% of the low income units. An alternative suggestion was to eliminate the 40% AMGI level and allow the 30% units to go up to 20% of total units.

It was emphasized by several commenters that by limiting the percentages of units that can be set aside for varying levels of AMGI for developments in QCTs, those developments are prevented from having the ability to achieve the same level of points as non-QCT developments. Therefore, developers are incentivized to not develop in a QCT, a direct conflict with Section 42(m) of the Internal Revenue Code which requires that a preference be given to developments in QCTs. Conversely one comment was made supporting the limitation of percentages of units set aside for low income targeting in QCTs because it emphasized deconcentration in

those areas that already have high concentrations of poverty. It was requested that the limitation also be applied to Difficult Development Areas (DDAs) and Targeted Texas Counties (TTCs) to again de-emphasize putting lower income units in areas of high poverty concentrations.

Department Response: The Department agrees that a revision to the caps is warranted. Based on the variety of public comment, staff suggests the following revision. Emphasis was added that for purposes of calculating this exhibit low income units refers only to the “targeted” units in this exhibit and does not include units at 60% of AMGI. Staff agrees that singling out QCTs may be perceived as a violation of §42 of the Internal Revenue Code and therefore recommends that the QCT reference be removed and developments in QCTs be treated as all other applicants are treated for this exhibit.

“No more than 50% of the total number of low income units (including Units at 60% of AMGI) will be counted as designated for tenants at or below 50%40% of the AMGI for purposes of determining the points in the 50%, 40% and 30% AMGI categories. No more than 30% of the total number of low income targeted units will be counted as designated for tenants at or below 40% of the AMGI for purposes of determining the points in the 40% and 30% AMGI categories. No more than 20% of the total number of low income targeted units will be counted as designated for tenants at or below 30% of the AMGI for purposes of determining the points in the 30% AMGI category. For purposes of calculating “Total Low Income Targeted Units” for this exhibit, Units at 60% of AMGI are not considered. For Developments located in a Qualified Census Tract no more than 30% of the total number of low income units will be counted as designated for tenants at or below 40% of the AMGI for purposes of determining the points in the 40% and 30% of AMGI categories.”

V. Deferred Developer Fee

Comment also suggested that the limitation on the deferred developer fee not exceeding 50% of the total developer fee should be reinstated to reduce the riskiness of the developments. Conversely, there was comment that greater points should be given for developers willing to defer their fee to provide the deeper subsidy. Another comment indicated that without additional soft sources of capital to support the lower levels of AMGI, too much pressure is placed on deferred developer fees. Syndicators will not invest in properties that have more than 80% of developer fees deferred. The market of finding an investor for the harder-to-place deals is disappearing.

Department Response: The Department is aware of the concerns relating to deferred developer fee, but continues to feel that the scoring component of application review should be divorced entirely from the review for financial feasibility. The concerns mentioned will be evaluated during the underwriting of the development and each development will be appraised on a case by case basis. No change is suggested.

III. Subsidy Comments

Finally, there was substantial comment on the subsidy requirement for this exhibit particularly supporting the removal of the subsidy requirement. It was suggested that since serving families at 30% is purely a financial decision (and the deal either works or it doesn't) that the subsidy requirement should be deleted; the market should dictate whether an applicant can qualify for 30% units and awarding points should be based on serving those families, not on getting a subsidy that for some applicants may be unnecessary. Other comments on the subsidy, which indicate a level of concern over its inclusion in the QAP, included:

- Tenant based Section 8 contracts should qualify as a subsidy.
- It is unclear as to what needs to be in the letter of commitment.
- PHAs indicated that to reach the income levels that PHAs must serve they often designate some of their units as “public housing units” and provide a federally-funded subsidy to the Owner to cover the operating deficits. The subsidy is technically coming from a Related Party to the development and it is requested that this language be changed.
- Comment supported allowing applicants until Carryover to demonstrate a commitment from other funding sources as currently drafted. By waiting until after the credits have been committed by the department, this strengthens the applicants appeal to other funders.
- The Department needs to tell the amount needed to be considered a subsidy.

- Several comments supported that the subsidy must come from an entity that is financially capable of providing the subsidy as proven by financial statements with liquidity to perform on the commitment.
- The department must adequately answer the question of what will happen if the subsidy fails to materialize – they suggest that the credits be returned to the state for reallocation if at the time of final award of credits the subsidy has not materialized.
- Subsidy should be required by the Board meeting where they vote, not at carryover.

In summary, because of these many unanswered questions, the simplest approach is to remove the requirement for subsidy for the 30% Units. The Department should simply look at the entire financial package and should not treat a Development differently because it has 30% Units (as opposed to 40% Units or other rent-restricted Units). If the numbers work, the Development is feasible. If the numbers do not work, the Development is not feasible.

Department Response: Staff strongly concurs with the suggestion that the subsidy does not need to be directly tied to this exhibit. In 2002 this requirement was added at the last minute to address concerns that legislative requirements were not being met. However staff feels that the legislation is still being met without the subsidy requirement in this exhibit and therefore is proposing the removal of the requirement. The legislative requirement at §2306.6710(b)(1)(G), to give points for the commitment of funds to better enable developments to serve lower income families, has been alternatively integrated into the exhibit relating to other funding sources (HOPE VI, Section 202, Section 811, etc.) which has been expanded to include other suggested funding sources including Community Development Block Grants, project-based Section 8 vouchers from HUD, and HOME awards.

~~“(i) To qualify for points for Units set aside for tenants at or below 30% of AMGI, an Applicant must provide evidence of a subsidy as documented by a commitment letter or in the case of local, state or federal subsidy, a copy of the application and evidence that the awarding entity has received the application. Commitments of funds must specify the amount of funds committed, the terms of the commitment and the number of Units targeted at the AMGI level. Evidence of subsidy should be submitted in accordance with (e)(6)(D)(iii) of this section. The commitment of funds can not be provided by any Person with an ownership interest in the Applicant or General Partner(s), the equity provider, the lender, a Related Party, any member of the Development Team, or any entity receiving any portion of the developer fee. Tenant based Section 8 contracts do not constitute evidence of a commitment of subsidy for the Development. If project-based Section 8 is utilized, a letter from the public housing authority indicating that they are committing Section 8 to the Development and that they are permitted by HUD to commit Units to a specific Development. If the project-based Section 8 assistance is not allocated by a public housing authority, appropriate evidence of the Section 8 contract(s) must be provided.”~~

§49.9(f)(9) – Selection Criteria – Length of Affordability

Comment: There was comment supporting the deletion of this exhibit and much more extensive support for only giving points for extending the affordability for an additional 10 years. Reasons include that there is no program in place to deal with funding renovations of older tax credit developments and this section forces applicants to select one of these options to remain competitive. To extend the restrictive nature of the development over its useful life without any funding source of a major renovation is not in the best interest of the state of Texas. The community demographics may change over a 50-year period and the restrictions would force the communities to maintain an obsolete development rather than replacing it with a more useful purpose. Clarifying introductory language was also suggested that more accurately referenced the extended use period and affordability periods. When this language was originally inserted in the QAP in 2002, it caused concern among the syndicators who anticipate exiting the deals at the end of the federal compliance period. These concerns can be addressed with improved language, while still meeting the goals of the Department to have long-term affordability.

Department Response: The Department concurs with adjusting the language to reflect shorter time periods while still encouraging developments to serve low income tenants for the longest time feasible. Staff also recommends implementing the clarifying revisions. The exhibit is shown redrafted and as deleted.

"(9) Length of Affordability Period. In accordance with the Code, each Development is required to maintain its affordability for a 15-year compliance period and, subject to certain exceptions, an additional 15-year extended use period. Applicants that are willing to extend the affordability period for a Development beyond the 30 years required in the Code may receive points as follows:

(A) Add 5 years of affordability after the extended use period for a total affordability period of 35 years (8 points); or

(B) Add 10 years of affordability after the extended use period for a total affordability period of 40 years (12 points)."

~~(9) Length of Affordability Period. The initial compliance period for a development is fifteen years. In accordance with Code, developments are required to adhere to an extended low income use period for an additional 15 years. To receive points the Development Owner elects, in the Application, to extend the affordability period beyond the extended low income use period. The period commences with the first year of the Credit Period.~~

~~(A) Extend the affordability period for an additional 10 years, with an Extended Use Period of 40 years (8 points);~~

~~(B) Extend the affordability period for an additional 15 years, with an Extended Use Period of 45 years (10 points);~~

~~(C) Extend the affordability period for an additional 20 years, with an Extended Use Period of 50 years (12 points); or~~

~~(D) Extend the affordability period for an additional 25 years, with an Extended Use Period of 55 years (14 points);~~

§49.9(f)(11) – Selection Criteria - Pre-Application Points

Comment: Broad support was received supporting the drafted changes to the pre-application process including the reduction of points and the reduced level of staff review. One comment suggested returning the pre-application points to the 2002 level of 15 points because the reduction to 7 points means that applicants will look at their competition and then restructure their own application to jump ahead of their competition. A developer may forego the 7 pre-application points knowing that he can make up for the deficit in other areas that the competitor has already researched. One other comment also agreed that 7 points was too low, but thought that 10 points was a more appropriate middle ground because the 7 points can be too easily overcome in other point categories. The foresight, cost and effort necessary to submit a pre-application warrants 10 points. One comment suggested that instead of allowing a 5% variance in score to retain the preapplication points, that this should be increased to 10% because a 5% variance is very small when looking at total scores that may go down.

Department Response: The Department feels that the current draft reflects an acceptable balance of points and pre-application requirements. Staff also feels that the 5% variance is more than sufficient. No changes are proposed.

§49.9(f)(12) – Selection Criteria – Extension Penalty Points

Comment: Several comments indicated that the QAP needs to clarify that if an extension is not used, and the original deadline is met, that no points will be deducted. The QAP now requires Development Owners to apply for extensions earlier than in the past. This will make it difficult for a Development Owner to project whether an extension will really be needed, particularly for the construction loan closing deadline when the financing is being negotiated and finalized. Conservative Development Owners are therefore put in a position of requesting an extension whether it will be needed or not, just in case some glitch arises at the last minute. If the Department is going to require extension requests to be filed earlier, then the QAP should have a provision whereby the Development Owner will not lose points if the extension is not used or is withdrawn before approved by the Board. Another comment suggested deleting this section because there are many legitimate reasons for extensions. The fee is penalty enough. A separate comment suggested that first-time extensions be

exempt from the two point deduction penalty. In addition, the language of this § can be clarified with respect to the parties to whom it applies. We recommend the language read: “Penalties will be imposed on an Applicant if the Applicant or any of its Affiliates have requested extensions . . .”

Department Response: Staff has proposed adding the clarifying language regarding what parties are affected, as well as on “unused” extensions. To address the comment suggesting deletion, and allowing a “freebie” extension, it should be noted that this selection criteria is required under §2306.6710(b)(2) of Texas Government Code.

“(12) Point Reductions. Penalties will be imposed on an Applicant if the Applicant or any of its Applicants or Affiliates who have requested extensions of Department deadlines, and did not meet the original submission deadlines, relating to developments receiving a housing tax credit commitment made in the application round preceding the current round. Applicants or Affiliates having filed an extension, but met the original deadline as required, will not have points deducted. Extensions that will receive penalties include all types of extensions identified in §49.21 of this title, received on or before the close of Application Acceptance Period, including Developments whose extensions were authorized by the Board. For each extension request made, the Applicant will be required to pay a \$2,500 extension fee as provided in §49.21(j) of this title and receive a 2 point deduction.”

§49.9(g) – Evaluation Factors

Comment: There was broad support for the geographic dispersion factor having been added so that within a region not all funds will go to the large metropolitan areas. Support was also voiced for adding “location in a QCT” to the evaluation factors. Other comment suggested that paragraph (2) should be removed because developments already receive points for longer affordability periods making this evaluation factor redundant. It was suggested that paragraph (7) be removed as it is too subjective and that paragraph (6) be made a higher priority for the Department to avoid concentration of low-income units.

Department Response: Staff concurs that paragraph (2) is redundant with selection criteria and suggests its removal and that paragraph (7) is too subjective to adequately implement. Staff also agrees that paragraph (6) should be place higher on the list.

“(1) to serve a greater number of lower income families for fewer credits;
(2) ~~to serve a greater number of lower income families for a longer period of time in the form of a longer affordability period; to ensure geographic dispersion within each Uniform State Service Region;~~
(3) to ensure the Development’s consistency with local needs or its impact as part of a revitalization or preservation plan;
(4) to ensure the allocation of credits among as many different entities as practicable without diminishing the quality of the housing that is built as required under the Texas General Appropriations Act applicable to the Department;
(5) to give preference to a Development which is located in a QCT or a Difficult Development Area as specifically designated by the Secretary of HUD, and which also contributes to a concerted community revitalization plan; and
(6) ~~to ensure geographic dispersion within each state service region;~~
(7) ~~to provide the greatest number of quality residential Units; and~~
(68) to provide integrated, affordable accessible housing for individuals and families with different levels of income.”

§49.10(c) – Forward Commitment

Comment: Concern was voiced over the elimination of the 15% target for forward commitments; by removing the 15% figure the public is given no guideline as to how much of the following year’s credits the board might commit. There was concern that the board may commit too much and that to prevent the board from allocating as much as 50% of the following year’s credits, the QAP should clearly state how much of the 2004 credits will be forward allocated. Concern was also voiced that the term “compelling housing need” is not an acceptable reason for the board to allocate forward commitments and that Senate Bill 322 requires the Board to allocation all credits based on the selection criteria and standards outlined in the bill. The QAP needs to clearly identify what criteria the board will use and they should not be subjective. Alternative comment

suggested that the Board allocate forward commitments to worthy developments in rural areas with high need that could not score competitively. It was also suggested that the QAP state that ORCA is required to make final approval of the commitments before the TDHCA Board can award the credits. There was also support that a portion, if not all, of the forward commitments should be subjective and at the discretion of the Executive Director and the Board to allow for some applications that don't score well, but have merit for compelling social reasons, to benefit from an allocation. There was also support for doing away with the 15% expectation of forward commitments. Eliminating the cap may not be right way though because it may pressure the board to exceed 15%. Support it being lowered to 10% in 2003 and 5% in 2004. There was support for using forward commitments for RHS developments.

Department Response: Staff recommends that the 15% figure not be reinstated as it sets an expectation that at least 15% of the 2004 credit ceiling will be allocated in 2003. The board should also be given discretion in allocating the forward commitments. No changes are proposed.

§49.11 – Pre-Application Submission Log

Comment: Comment indicated that this section does not make reference to the posting of pre-application scores on the pre-application submission log as indicated in 49.8(d).

Department Response: Section 49.11(a) of the draft QAP already specifically refers to the posting of the Pre-Application Submission Log. No changes are proposed.

§49.12(a) – Deadlines for 4% Credit Applications for Tax Exempt Bond Financed Developments

Comment: Comment was received requesting that deadlines for Department-issued bond transactions be extended to be the same as local-issuer transaction deadlines. The bond deadline is too short and there needs to be consistency among the dates. Also (a)(3) does not account for the scenario of a waiting list bond development for which TDHCA is not the issuer – this issue needs to be addressed.

Department Response: Revisions had been made to this section to try to improve internal administrative processing. However, staff concedes that the deadlines given are difficult to meet for applicants. Revisions are proposed to accommodate public comment.

(a) Filing of Applications for Tax Exempt Bond Financed Developments. Applications for a Tax Exempt Bond Development may be submitted to the Department as described in paragraphs (1) and (2) of this subsection:

~~(1) Applicants which receive notice of a Program Year 2003 reservation as a result of the Texas Bond Review Board's (TBRB) lottery for the private activity volume cap, and for which the issuer of the bonds is the Department, must file a complete Application no later than 10 days after the date of the issuance of the bond reservation. Such filing must be accompanied by the Application fee described in §49.21 of this title.~~

~~(2) Applicants which receive advance notice of a Program Year 2003 reservation as a result of the Texas Bond Review Board's (TBRB) lottery for the private activity volume cap, and for which the issuer of the bonds is an entity other than the Department, must file a complete Application not later than 60 days after the date of the TBRB lottery. Such filing must be accompanied by the Application fee described in §49.21 of this title.~~

~~(3) Applicants which receive advance notice of a Program Year 2003 reservation after being placed on the waiting list as a result of the TBRB lottery for private activity volume cap, and for which the issuer of the bonds is an entity other than the Department, must submit Volume 1 of the Application and the Application fee described in §49.21 of this title prior to the Applicant's bond reservation date as assigned by the TBRB. Any outstanding documentation required under this section must be submitted to the Department at least 45 days prior to the Board meeting at which the decision to issue a Determination Notice would be made.~~

§49.12(c) – Supportive Services for Tax Exempt Bond Financed Developments

Comment: Comment suggested that the LURA should be flexible as to the identification of the social services to be provided so that they can change over time if necessary to meet the needs of the tenants.

Department Response: Staff concurs that the LURA should be flexible, although this is not a change for the QAP. No changes are proposed.

§49.12(d) – Financial Feasibility Evaluation for Tax Exempt Bond Financed Developments

Comment: Broad support was voiced for the 2002 and 2003 QAP language that gives the ability to increase credits for 4% bond developments. Comment also suggested a revision to the language to reflect that an increase in tax credits is actually based on an increase in Eligible Basis.

Department Response: Revision is proposed regarding clarification of Eligible Basis language.

“Any increase of tax credits, from the amount specified in the Determination Notice, at the time of each building’s placement in service will only be permitted if it is deemed that causes for the increased Eligible Basis credits were beyond the control of the Development Owner, were not foreseeable by the Development Owner at the time of Application and were not preventable during the construction of the Development, as determined by the Board.”

§49.13(a)(6) – Commitment and Determination Notices

Comment: Broad Support was voiced for the proposed change requiring a second material noncompliance evaluation at commitment. One comment suggesting deleting this additional review because developers have already spent quite a bit of money by this point. Instead the offenders should be pinpointed so that corrective action can be taken. It was also stated that the dates of June 30, 2003 and May 15, 2003 do not work for Tax Exempt Bond Developments that receive allocations throughout the year.

Department Response: Revision regarding dates for applicability of Tax Exempt Bond Developments are proposed.

“(6) A Commitment or Determination Notice shall not be issued with respect to any Applicant or any Person, General Partner, general contractor and their respective principals or Affiliates active in the ownership or control of other low income rental housing property in the state of Texas funded by the Department, or outside the state of Texas, that is in Material Non-Compliance with the LURA (or any other document containing an Extended Low Income Housing Commitment) or the program rules in effect for such property as of June 30, 2003 (or for Tax Exempt Bond Development as of 10 business days prior to the Board’s vote to allocate credits). Any corrective action documentation affecting the Material Non-Compliance status score for Applicants must be received by the Department no later than May 15, 2003 (or for Tax Exempt Bond Developments must be received no later than 20 business days prior to the Board’s vote to allocate credits).”

§49.14(b) – 10% Test

Comment: Support was given to the draft 2003 QAPs utilization of the “6-month” rule as it will save owners money.

Department Response: No changes are proposed.

§49.15(a) – Closing of the Construction Loan

Comment: Comment suggested that over the years, there have been numerous questions as to the documentation required to be provided to evidence construction loan closing and the manner in which the Department reviews the documentation. Currently, the documentation required includes a Deed of Trust for the construction loan, a closing statement from the title company showing a loan has been "opened", a copy of the partnership agreement with the syndicator, and a copy of the syndicator’s site visit report. How does the Department review these documents? What is it looking for? Under what circumstances could the documents be rejected? If the Department identifies concerns with the documents, are the tax credits jeopardized?

Department Response: Staff agrees that the documentation required, and the review involved, needs to be more formally outlined. Staff intends to revise these documents, and an accompanying procedure, to address these concerns. However, because this is a procedural improvement, no changes are proposed to the QAP.

§49.15(b) – Commencement of Substantial Construction

Comment: Comment was received from the Department of Housing and Urban Development indicating that the August deadline of the following year for commencement of substantial construction, combined with the level of completion required by that time, may exclude 221(d)(4) insurance and other financing as there may not be enough time to obtain permanent financing. More details were provided for an exception for the 221(d)(4) program. There was extensive opposition to the new August deadline and support for retaining the November deadline used in 2002. In large cities where the permitting process takes up to 4 months, or in instances where weather may cause delays in pouring foundations, the August date is too early. The main concern is that the Development must be completed in the timeframe required by the Code. Comment regarding what level of activity needed to be completed by November varied from 100% of slabs to only having poured the foundation on one building (because the 50% standard discriminates against developments with more buildings), to completion of underground with foundation pads in place to 10% of construction budget spent by the last Friday in November as documented by the inspecting architect. Other comment asked for clarification regarding what the minimum activity requirement for construction commencement is with regard to rehabilitation transactions.

Department Response: Based on public comment, staff recommends reverting to the November deadline used in the 2002 QAP. However, staff continues to recommend the more specific, and stringent, level of activity that is required by that date. A clause is added to address rehabilitation developments.

“(b) Commencement of Substantial Construction. The Development Owner must commence and continue substantial construction activities not later than the second Friday in November ~~last Friday in August~~ of the year after the execution of the Carryover Allocation Document with the possibility of an extension as described in §49.21 of this title. The minimum activity necessary to meet the requirement of substantial construction for new Developments will be defined as having poured foundations for at least 50% of all of the buildings in the Development. The minimum activity necessary to meet the requirement of substantial construction for rehabilitation Developments will be defined as having expended 10% of the construction budget as documented by the inspecting architect. Evidence of such activity shall be provided in a format prescribed by the Department.”

§49.17(c) – General Contractor Experience

Comment: Comment noted that the department should maintain a database on experienced developers and contractors so one does not have to resubmit data each year. This will result in less storage of repetitive data for the state and be less work for the applicants.

Department Response: Staff concurs and will strive to implement such a system in the near future. No changes are proposed to the QAP.

§49.17(e) – Accessibility Inspections

Comment: Comment suggested that existing and future TDHCA developments should be surveyed for accessibility to ensure compliance with accessibility standards. Those developments found out of compliance should be made to correct their mistakes immediately.

Department Response: The 2003 QAP requires for all applicants awarded credits in 2003 an accessibility inspection performed by a third-party accessibility inspector prior to the issuance of IRS Forms 8609. No changes are proposed.

49.17(j), 49.18(a), and 49.18(c) – Amendments

Comment: It was noted that developments sometimes experience change after the time the Application is filed. This may be due to changes in the marketplace, changes in the law, or other matters that may be outside the control of the Development Owner. The Department has an understandable interest in reviewing and approving significant changes to a Development to ensure that the Development continues to comply with the QAP and the Department’s standards. There are several sections of the QAP that address amendments and, because each is a little different, it can create some confusion. Some parts of the QAP refer to a change in the Application while others refer to a change in the Development itself. For instance:

- §49.9(a) refers to an amendment to an Application pursuant to §49.18. Yet, §49.18(a) refers to an alteration of the Development.
- § 49.9(a) refers to an amendment to an Application pursuant to § 49.18 after the Development has received a Commitment. Yet, §49.18(a) refers to an alteration of the Development between the time the Board approves the Development and the time the Commitment Notice or Determination Notice is issued.
- §49.18(a) refers to an alteration of the Development during a specific time period. §49.18(c) refers to an alteration of the Development generally.
- §49.17(j) refers to an amendment of a Commitment Notice or Carryover Allocation or any "other requirement with respect to a Development"? Is the highlighted language intended to refer to the Application? This section is not clear about whether Board action is required.

The amendment provisions need to be reworked to be consistent and clear. It seems that amendments fall into two categories: (1) an amendment of any representations or warranties made in the Application with regard to the Development or the Development Team during the time the Application is pending before the date on which the Board grants its approval for a Commitment Notice or Determination Notice to be issued and (2) an amendment of any representations or warranties made in the Application with regard to the Development or the Development Team after the Board has granted its approval for a Commitment Notice or Determination Notice to be issued. Amendments prior to Board approval are generally prohibited, except for correction of certain deficiencies. Amendments after Board approval (which may include a change in a member of the Development Team, a change in social services, etc.) should be permitted within certain parameters, and it should be clear what kinds of amendments require Board action and what kinds of amendments can be approved at the staff level. For instance, it is not unusual for an Applicant to determine that it must create a single-asset entity that is a wholly-owned subsidiary to serve as the General Partner of the Development Owner. This kind of change in the ownership structure, provided the same parties are ultimately in control, should be permitted and should not require significant administrative procedure or time delay like Board action.

Department Response: The Department concurs that the protocols relating to amendments definitely need clarification and refinement. Staff feels that more extensive research is required to ensure that this is handled comprehensively, and with adequate input from the development community, prior to making a recommendation for the 2004 QAP. No changes are proposed.

§49.18(b) – Appeals Process

Comment: Comment suggested that the applicant and the department should have an equal number of days to respond to an appeal (7 each or 14 each, but not 7 for the applicant and 14 for the Department). It was also suggested that if the applicant is unhappy with the Department response they can appeal to an independent third party arbitrator, and not the Board, whose decision will be binding. The reason for this suggestion is that the Board has so much material to go over they may not have ample time to thoroughly review each appeal on its merits. It would also remove the board from any legal liability. Additionally comment was received clarifying the language regarding the deadline for filing appeals. Another comment asked that the appeal for scoring be expanded to include appeals for “failure to allocate tax credits based on that scoring.”

Department Response: The requirement and details regarding the number of days that each party has to respond to the appeal are legislated in §2306.6715 of Texas Government Code. It is also required in that citation that the Board, and not an independent third party arbitrator, be the party to hear an appeal if an applicant is displeased with the response of the executive director. Clarifying language is proposed relating to the deadline. Texas Government Code does not require the Department to allow appeals on non-allocation of credits, nor does staff suggest that appeals of that nature should be included in the appeals process.

“(3) An Applicant must file its appeal in writing with the Department not later than the seventh day after the date the Department publishes the results of any stage of the Application evaluation process identified in §49.9 of this title.”

§49.18(c)(3) – Amendment of Application Subsequent to Allocation by Board

Comment: Comment summarized that the Board by vote may reject an amendment and, if appropriate, rescind a Commitment Notice or terminate the allocation of housing tax credits and reallocate the credits to other Applicants on the Waiting List if the Board determines that the modification proposed in the amendment: A) would materially alter the Development in a negative manner. It is suggested that the Department define “negative manner” or provide examples of negative material alterations. This clause also needs to address how this impacts Tax Exempt Bond Developments?

Department Response: As mentioned above, the Department concurs that the protocols relating to amendments need clarification and refinement. Staff feels that more extensive research is required to ensure that this is handled comprehensively and with adequate input from the development community prior to making a recommendation for the 2004 QAP. No changes are proposed.

§49.18(c)(7) – Amendment of Application Subsequent to Allocation by Board

Comment: Is "monitor" supposed to be "underwriter"?

Department Response: The reference to “monitor” is taken directly from §2306.6712 of Texas Government Code. As mentioned above, the Department plans on revising the protocols relating to amendments need clarification and refinement and will reevaluate the use of the term “monitor.” Staff feels that more extensive research is required to ensure that this is handled comprehensively and with adequate input from the development community prior to making a recommendation for the 2004 QAP. No changes are proposed.

§49.18(d) – Housing Tax Credit and Ownership Transfers

Comment: Some comment suggested that transfers within the first two years after completion of a project should not be permitted if the transferee would, as an application, violate the \$1.6 million limitation. Otherwise this invites potential abuse. One other comment suggested that clarification be provided regarding which types of Affiliate transfers are permitted without written approval? For instance, if the Applicant and the Development Owner are not the same Persons but are Affiliates, can the Applicant transfer the allocation to the Development Owner without approval? What does this imply for changes in the ownership structure of the Development Owner itself? Can the General Partner transfer its ownership interest to an Affiliate without approval? Some clarification would be beneficial. Also note the inconsistency between the use of the word "Affiliate" versus the use of the word "Related Party" in this section. Consider requiring the Applicant to provide the name of the transferee and an organizational chart for the transferee.

Department Response: Because this section is so closely linked with definitions of Affiliate, Applicant, Development Owner and Related Party, staff suggests addressing this issue in the working group that is has suggested earlier in this memorandum to thoroughly research these terms and make recommendations for simplification and improvement for the 2004 QAP. No other changes are proposed.

§49.19(b) – Compliance Monitoring and Material Non Compliance – Construction Monitoring

Comment: It was suggested that instead of the applicant having to provide copies of inspection reports within 15 days automatically, the clause “upon request” should be added so that the department will not be overburdened with excess documentation on developments that they are comfortable with. A revision for clarification was proposed.

Department Response: The Department requires these reports from all parties and does not suggest that they be provided only “upon request” but automatically. The recommended clarification is proposed.

“(b) The Department, through the division with responsibility for compliance matters, shall monitor for compliance with all applicable requirements the entire construction or rehabilitation phase associated with any Development under this title. The Department will monitor under this requirement by requiring a copy of reports from all construction inspections performed for the lender and/or syndicator for the Development.”

§49.19(e) – Compliance Monitoring and Material Non Compliance - Database

Comment: This language does not specify who should have access to the database.

Department Response: The database is intended to be easily accessible to the employees who regularly access the compliance and development records in their daily duties. No change is proposed.

§49.19(g) – Compliance Monitoring and Material Non Compliance - Financials

Comment: The March 1 delivery date of copies of certified audits is too early. Most syndicators require tax returns by March 1 and the certified audit by the end of March. The requirement should be by the end of April (or later) to allow for delays or other issues such as the issuance of 8609s.

Department Response: The owner certification of compliance, which is referred to as the Housing Sponsor Report in §2306 of Texas Government Code, is required to be submitted by March 1 of each year. §2306 does not address the audited financial reports, therefore it is reasonable to allow a later submission. Staff proposes a new deadline.

“(g) The Development Owner will deliver to the Department no later than the last day in April ~~March 1~~ each year, the current audited financial statements, in form and content satisfactory to the Department, itemizing the income and expenses of the Development for the prior year.”

§49.19(h) – Compliance Monitoring and Material Non Compliance - Prohibitions

Comment: Comment was received that the sanctions of this section are too severe for an individual or minimal infraction. Rather than being absolute in the penalty, it should be subject to the departments ruling. For such a severe penalty, the infraction needs to be continuous and without audit procedure to stop or attempt to prevent. With field managers and assistants unintentional slips can occur. The opening paragraph of §49.19(h) sets forth a list of things that a Development may not do. Subparagraphs (1) and (2) clearly state prohibitions; however, subparagraphs (3), (4), and (5) do not. It is clear that is not the intention of the Department, as subparagraph (3) would then prohibit posting Fair Housing logos. This section should be restructured.

Department Response: The Department feels that the sanctions are appropriate. The section is “restructured” in the draft QAP only as it relates to the numbering of the exhibits. No language change is proposed.

§49.19(h)(5) – Compliance Monitoring and Material Non Compliance – Section 8 communication

Comment: Subparagraphs (A) and (B) are somewhat unclear as it relates to the material noncompliance score. Comment indicated that a harsh penalty may be excessive.

Department Response: Clarification was added referring each section back to the Material Non-Compliance points section. The Department feels that the harshness of the penalties is appropriate for the violation. An advocacy working group was established and worked together to generate a policy regarding this issue.

“(A) Failure to lease to a prospective tenant due to the applicant’s status as a recipient of a federal rental assistance voucher or certificate will result in a material non-compliance score as more fully described in subsection (s) of this section.

(B) A complaint of exclusion from admittance as described in subsection (h)(5) of this section that has been verified by the Department shall result in a non-compliance score as more fully described in subsection (s) of this section for a period of one year from the date of the Department’s verification of the complaint.”

§49.19(j)(1)(M) -- Compliance Monitoring and Material Non Compliance – Nontransient Units

Comment: Subparagraph (M) appears to restate subparagraph (E).

Department Response: This was an error. Staff recommends revising (E) as shown and deleting (M).

“(E) all low income Units in the Development are and have been for use by the general public and used on a non-transient basis (except for transitional housing for the homeless provided under the Code, §42(i)(3)(B)(iii) and (iv));

~~“(M) All low income Units in the Development were used on a nontransient basis (except for transitional housing for the homeless provided under the Code, §42(i)(3)(B)(iv));”~~

§49.19(n) – Compliance Monitoring and Material Non Compliance – Notices to Owners

Comment: This language should be clarified as to whether it means an additional six months or six months in the aggregate.

Department Response: This section pertains to the correction period that is allowed by §42. The Department is required to give notice to an owner if any non-compliance is identified. The notice must provide the owner with a correction period. The correction period is not to exceed 90 days from the date of the notice to the owner, however the Department may extend the correction period up to 6 months (from the date of the notification or monitoring letter) with good cause. Any extensions granted by the Department are date specific. Changes are proposed for clarification.

“The notice will specify a correction period which will not exceed 90 days from the date of notice to the Owner, during which the Development Owner may respond to the Department's findings, bring the Development into compliance, or supply any missing certifications. The Department may extend the correction period for up to six months from the date of notice to the Owner if it determines there is good cause for granting an extension.”

§49.19(s) – Compliance Monitoring and Material Non Compliance - Violations

Comment: It was requested that any violation of the Section 504 requirements be viewed as a material violation.

Department Response: §504 is not monitored by HUD or the Department of Justice. However any violation of the §504 threshold requirement constitutes a LURA violation. It should also be noted that the QAP now requires a third party accessibility inspection prior to the issuance of IRS Forms 8609. No changes are proposed.

§49.19(s) – Compliance Monitoring and Material Non Compliance

Comment: Comment suggested that points for noncompliance issues be deducted based on the performance of the partner responsible for the project. If a management company is at fault then both partners should be penalized. It was also recommend that the Department establish a scoring structure with proportionality based on the size of the applicant's portfolio – the proposed scoring structure is too subjective. There was also concern about the ambiguity of some of the language in this section. The ambiguity is especially troublesome if the Department is going to impose its scoring system on projects in other states. While they appreciate the Department's interest in establishing a uniform standard for the evaluation of non-compliance issues, they believe using one point system for all jurisdictions could pose problems. For instance, a state may not require an Affirmative Marketing Plan in the same manner Texas does. If an Applicant is following all of the rules in the state in which its property is located, it should not be punished in Texas. Another consideration is that other states may not maintain data on some of the compliance standards established by the Department, which would impact the Department's ability to make its compliance calculation. Further, the commenter noted their concern about the subjectivity granted to the Department in this section. While they recognize that the Department requires a level of subjectivity in order to declare a property or a property owner not in compliance, a significant amount of subjectivity may create more problems than it solves. Suggested revision regarding the wording of the entities being reviewed was provided.

Department Response: Staff concurs with these comments and the Department is working towards a scoring system based on proportionality of the portfolio. Staff hopes to integrate this item into the working group for the 2004 QAP mentioned earlier in this memorandum. As it relates to the information received from other states, the Department only evaluates what other states report. They are not going to report violations that are not on their “radar” such as an affirmative marketing plan. The Department will evaluate only those items reported and apply its scoring methodology; only the most egregious non-compliance will become evident. Suggested revision regarding the entities is proposed.

(s) Material Non-Compliance. In accordance with §49.5(b)(6) and (7) of this title, the Department will disqualify an Application for funding if the Applicant, the Development Owner, or the General Contractor, or any Affiliate of the Applicant, the Development Owner, or the General Contractor or other Persons,

~~General Partner, General Contractor, and their respective principals or Affiliates that is~~ active in the ownership or control of one or more other low income rental housing properties located in or outside the State of Texas is determined by the Department to be in Material Non-Compliance on the date the Application Round closes.

§49.19(s)(1) – Compliance Monitoring and Material Non Compliance

Comment: The use of the term "allocation" in the first sentence is a bit unclear. The Department scores a Development and then determines whether it receives an allocation. Some Developments that are scored do not receive allocations.

Department Response: The Department only evaluates, and scores, properties that already have an allocation. The Department does not evaluate the property proposed in the application. No change is proposed.

§49.19(s)(4) – Compliance Monitoring and Material Non Compliance

Comment: If the scoring system goes into effect on April 1, 2003, what scores are used in the meantime, particularly if non-compliance issues must be addressed prior to February 1, 2003? Comment suggested that this reference should be deleted because the structure needs to be created and then left alone so that developers making business decisions several years prior are not penalized (55).

Department Response: The Department concurs that the April 1 deadline may lead to confusion because it is unclear what standard applies prior to April 2. For simplicity, this section is revised.

"Multiple occurrences of these types of non-compliance events may produce enough points to cause the property to be in Material Non-Compliance. For purposes of these scores, the terms "uncorrected" and "corrected" refer to actions taken subsequent to notification of non-compliance by the Department. ~~Scores identified below become effective April 1, 2003.~~"

§49.19(s)(4)(A)(i) – Compliance Monitoring and Material Non Compliance

Comment: This appears to allow the Department to use its discretion in deciding if a Development has health, safety, or building code violations. This may be too subjective and open the Department to criticism. At a minimum, this should be tied to the receipt of a code violation notice from an appropriate governmental entity, like the city.

Department Response: §42 establishes the inspections standards. The Department utilizes these inspection standards, therefore a government entity would report a violation or there would be violations reported under the UPIS inspection. The Department relies on violations identified under either of these inspection standards. No changes are proposed.

§49.19(s)(4)(A)(iii) – Compliance Monitoring and Material Non Compliance

Comment: Who makes this "Determination of violation under the Fair Housing Act"? This should be tied to a final determination by a court of competent jurisdiction, or other appropriate body.

Department Response: HUD or the Department of Justice issues a determination of a violation under the Fair Housing Act after the investigation determines an actual violation of the Fair Housing Act. Under an MOU between HUD, DOJ and the U.S. Department of Treasury, the Department is required to notify the IRS via the IRS form 8823 of the violation.

§49.19(s)(4)(A)(iv) – Compliance Monitoring and Material Non Compliance

Comment: "Development is out of compliance and never expected to comply." What does this mean? Out of compliance with what? Who determines this? Again, this is a subjective standard that could open the Department to criticism. If the objective standards are drafted carefully and strictly enough, you probably do not need this provision anyway because the event of non-compliance can be captured by another category.

Department Response: There is a violation on the IRS Form 8823 that allows the Department to report owners that are no longer in compliance with the program. Any owners reported under this category have reported to us that they are no longer claiming credits and will not comply with the program. This is an item of last resort; we encourage compliance and do not want the units removed from inventory.

§49.19(s)(4)(A)(vi) – Compliance Monitoring and Material Non Compliance

Comment: Clarify that this applies only to properties that have received an allocation of tax credits in the non-profit set aside.

Department Response: Staff concurs with the proposed revision.

“(vi) No evidence or failure to certify to non-profit material participation for Owner having received an allocation from the Nonprofit Set-Aside. Uncorrected is 10 points. Corrected is 3 points.”

§49.19(s)(4)(A)(ix) and (x)– Compliance Monitoring and Material Non Compliance

Comment: The meaning is a bit unclear. Does an error in renting to just one person who is underage, or who does not have special needs, trigger this?

Department Response: Applicants need to be adhering to this requirement. A violation of this requirement is essentially a violation of the Fair Housing Act. Not meeting the set aside and not documenting marketing efforts to meet the set aside triggers the non-compliance. The Department feels that this is clear enough for monitoring purposes.

§49.19(s)(4)(A)(xii) – Compliance Monitoring and Material Non Compliance

Comment: It seems that a change in eligible basis should not trigger a non-compliance event if the minimum set aside continues to be met and the project is renting to income qualified people. Although there would be a loss of tax credits, the syndicator will adequately punish the Development Owner for that infraction. Who determines whether there has been a change in eligible basis? Is it based upon an IRS audit? Is this applicable only after the Forms 8609 are issued?

Department Response: Changes in eligible basis can include common areas becoming commercial space, a fee charged for a tenant facility formerly provided without charge, or receipt of a federal grant. Changes in the qualified basis are reported under “household over the income limit upon initial move in” or “failure to document” on the IRS Form 8823. The determination is based on these issues upon inspection and the determination is only made after IRS Forms 8609 have been issued.

§49.19(s)(4)(A)(xv) and (xvi) – Compliance Monitoring and Material Non Compliance

Comment: Clarify that the penalty is applied for failure to pay fees on time in accordance with any applicable deadlines.

Department Response: This requirement is directly from the IRS Form 8823 referring to “only if past due.” No changes are proposed.

§49.19(s)(4)(A)(xx) – Compliance Monitoring and Material Non Compliance

Comment: Again, this language creates significant subjectivity for the Department, which could subject the Department to criticism. What is a "pattern" of violations and who makes this determination?

Department Response: The Department makes the determination and determines what the “pattern” is. Again, this requirement is straight from the IRS Form 8823. These determinations are not made lightly. No changes are proposed.

§49.19(s)(4)(B)(i) – Compliance Monitoring and Material Non Compliance

Comment: We need to ensure that any points given under this category are not redundant with points given under § 49.19(s)(4)(A).

Department Response: The Department affirms that no points are given under both Development and Unit violations and the Compliance Division is vigilant about ensuring that this does not occur.

§49.19(s)(4)(B)(x) – Compliance Monitoring and Material Non Compliance

Comment: This should exclude Units that are unavailable because of casualty, as well as manager-occupied Units.

Department Response: It does exclude those instances. Clarification is provided.

“(x) Unit not available for rent. Unit is used for non-residential purposes excluding unavailable Units due to casualty and manager-occupied Units. Uncorrected is 3 points. Corrected is 1 point.”

§49.20(a)(1) – Department Records

Comment: Comment suggested adding that ORCA also be required to maintain tax credit program records as they complete them for the rural set-aside. "Reservation notice" is not used elsewhere in the QAP. Should "Commitment Notice" be used here?

Department Response: The Department and ORCA are in the process of executing a Memorandum of Understanding that will identify the role of ORCA in the administration of the rural set-aside. That document is independent of the Qualified Allocation Plan but will address the involvement of ORCA in the allocation process. Upon further review, staff identified that clause (1) regarding reservation notices and clause (2) regarding commitment notices are identical. Staff recommends the removal of clause 1 to eliminate redundancy.

~~“(1) the cumulative amount of the State Housing Credit Ceiling that has been reserved pursuant to reservation notices during such calendar year;”~~

§49.20(b)(1) – Application Log

Comment: Amend by adding that ORCA also be required to maintain tax credit program records as they complete them for the rural set-aside. As noted previously, the defined term "Related Party" is very broad and probably incorporates so many people that it would be infeasible for the Department to carry all of those names on a log. Perhaps the QAP can, once again, refer to the Development Owner's organizational chart and include on the log the name of the Development Owner and all Persons Controlling the Development Owner in accordance with the organizational chart.

Department Response: The Department and ORCA are in the process of executing a Memorandum of Understanding that will identify the role of ORCA in the administration of the rural set-aside. That document is independent of the Qualified Allocation Plan but will address the involvement of ORCA in the allocation process. Clarification provided.

~~“(1) the names of the Applicant and all Persons with an ownership interest in the Development Owner and Related Parties, the owner contact name and phone number, and full contact information for all members of the Development Team;”~~

§49.21(b) and (c) – Pre-Application Fee and Application Fee

Comment: As it relates to the CHDO discount, language should be clarified to indicate that the discount is for Applications in which a CHDO or nonprofit intends to serve as the managing General Partner of the Development Owner or Control the managing General Partner of the Development Owner.

Department Response: Proposed clarification is provided.

~~“Pre-Applications without the specified Pre-Application Fee in the form of a check will not be accepted. Pre-Applications in which a CHDO or Qualified Nonprofit Organization intends to serve as the managing General Partner of the Development Owner, or Control the managing General Partner of the Development Owner, Community Housing Development Organizations (CHDOs) and Qualified Nonprofit Organizations will receive a discount of 10% off the calculated Pre-Application fee.”~~

~~“Applications in which a CHDO or Qualified Nonprofit Organization intends to serve as the managing General Partner of the Development Owner, or Control the managing General Partner of the Development Owner, Community Housing Development Organizations (CHDOs) and Qualified Nonprofit Organizations will receive a discount of 10% off the calculated Application fee.”~~

§49.21(h) – Building Inspection Fee

Comment: Comment supported the department utilizing inspections performed by the construction lenders and syndicators and the associated fee. One comment supported deleting the fee because the inspections are a duplication of effort.

Department Response: The inspection fee was dramatically reduced and now represents only a processing fee for the Department’s administrative expenses related to the oversight of the construction inspection process (gathering and reviewing the reports from lenders and syndicators). No change is proposed.

§49.21(k) – Extension Requests

Comment: There was broad support for the proposed change on timing.

Department Response: No changes are proposed.

§49.22(b) – Manner and Place of Filing All Required Documentation

Comment: As you know, Applicants often use email to communicate with Department staff. Documents can be attached to email to respond to requests for more information and such. Is it possible to include email communication in this section?

Department Response: The Department makes an effort to communicate by email in day-to-day correspondence, however staff prefers that formal filings of documentation are not handled through email, but more formally submitted as described in this section.

II. NON-SUBSTANTIVE CHANGES TO THE QAP

From public comment, and staff review, grammatical and typographical errors were identified. Correction of these items was made to ensure that the document is as complete and accurate as possible. These corrections appear in the revised QAP that accompanies this memorandum.

§49.14(a) Carryover

Department Comment: For accuracy the clause “approved by the Board” was removed because Carryover extensions are not approved by the Board, but are approved administratively by the Department.

“Commitments for credits will be terminated if the Carryover documentation, or an approved extension, has not been received by this deadline. ~~or an extension approved by the Board.~~”

III. GENERAL TAX CREDIT COMMENTS NOT RELATED SPECIFICALLY TO THE QAP: COMMENTS AND DEPARTMENTAL RESPONSE

Regional Allocation Formula

Comment: The 13 regions should be used but the formula for calculating the allocation should be based purely on a per capita basis as in prior years. There should be no adjustment for prior awards. Other comment received indicated that population size and the AMI should also be considered in the calculation of the regional allocation formula. The larger the population, combined with the lowest AMI, should be given a greater amount of weight in the factors that make up the regional allocation formula. It was recommended that for allocating credits, a two-tier allocation system be created for regions that have the larger Metropolitan Statistical Areas (MSAs) such as Dallas, Austin and Houston (Regions 3, 6 and 7), so that smaller counties that share a region with dominating MSAs are not penalized and unable to receive credits.

Department Response: The comment submitted will be provided to the Housing Resource Center as they make revisions to the regional allocation formula.

Fair Housing Act

Comment: While the QAP addresses accessibility and discrimination for tenants, it does not address TDHCA’s position regarding discrimination against developments by local municipalities. Discrimination from local municipalities, even for properly zoned properties, have been manifested by the denial of letters of

support, or outright opposition, based solely on the fact that the proposed developments will serve low income residents. TDHCA should only consider comments from local municipalities, elected officials, neighborhood groups and private citizens that focus on the health and safety issues raised by a proposed development.

Department Response: The Department does not have the authority to limit the nature of public comment submitted to the Department regarding proposed developments. While staff and the Board evaluate comments on a case-by-case basis, the Board of TDHCA has set a strong precedent for not letting NIMBYism prevent an allocation of credits. Decisions tend to be derived, as suggested, on the comments that relate to health and safety issues.

Deferred Developer Fee Cap

Comment: Comment was received that either the QAP or the Underwriting Guidelines need to reinstate the 2002 rule that precludes an applicant from deferring more than 50% of the developer fee, although it is suggested that it be added into threshold and not be associated with any particular set of points. The rationale is that once an applicant defers more than 50% of the developer fee, the transaction becomes riskier and may not be bought by the equity community. This would cause credits to be returned and eventually rolled into the following year, which may give the department a reputation for allocation credits to deals that fail. It was also pointed out that many applicants who don't understand the program well will defer up to 90% of their developer fee without understanding the implications or having a plan for unforeseen financial needs (interest rate increases, construction cost increases, softening of the rental market) and this will ultimately hurt the investors.

Department Response: As a feasibility issue, the 50% figure is not relevant. Underwriting will be evaluating each development on the merits of its financial feasibility on an individual basis. Further, the market provided in the equity community will drive the limit, so staff feels that it is unnecessary for TDHCA to do so.

Credit Cap per Unit

Comment: There was broad support for instituting a limit on credits per unit: \$6,500 per unit for non-QCT developments and \$8,500 (or \$8,450) per unit for QCT developments.

Department Response: In the interest of ensuring adequate public input in the rulemaking process, the Department does not recommend adding a credit cap per Unit. Since it was not part of the 2002 QAP, nor part of the draft 2003 QAP, the public will not have had adequate time to respond to the suggestion. This suggestion will be considered in drafting the 2004 QAP.

Limitation on 9% Credit Awards in QCTs

Comment: Similar to the limitation that no more than 50% of bond allocations can be located in QCTs, it was suggested that no more than 50% of the 9% credit awards should be allocated in QCTs on a regional basis.

Department Response: In the interest of ensuring adequate public input in the rulemaking process, the Department does not recommend adding a credit cap per Unit. Since it was not part of the 2002 QAP, nor part of the draft 2003 QAP, the public will not have had adequate time to respond to the suggestion. This suggestion will be considered in drafting the 2004 QAP. It is possible that a revision such as this may be seen as a violation of §42 of the Internal Revenue Code because it may act as a disincentive to develop in a QCT and the Department is obligated to give a preference to developments located in QCTs.

Limit on New Developers

Comment: One comment suggested limiting new developers as to the number of projects and the size of project they can submit. No additional explanation was provided or justification.

Department Response: The Department does not feel that limits on new developers is necessary. The experience requirement must be satisfied on all applications, whether it is a new developer or not. If the applicant is able to meet the experience requirement they should be able to participate with equal standing.



2003 Low Income Housing Tax Credit Program Qualified Allocation Plan and Rules

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§49.1. Purpose, Program Statement, Allocation Goals.

(a) **Purpose.** The Rules in this chapter apply to the allocation by the Texas Department of Housing and Community Affairs (the Department) of Housing Tax Credits authorized by applicable federal income tax laws. The Internal Revenue Code of 1986, §42, as amended, provides for credits against federal income taxes for owners of qualified low income rental housing Developments. That section provides for the allocation of the available tax credit amount by state housing credit agencies. Pursuant to Executive Order AWR-91-4 (June 17, 1991), the Department was authorized to make Housing Credit Allocations for the State of Texas. As required by the Internal Revenue Code, §42(m)(1), the Department developed a Qualified Allocation Plan (QAP) which is set forth in §§49.1 through 49.24 of this title. Sections in this chapter establish procedures for applying for and obtaining an allocation of Housing Tax Credits, along with ensuring that the proper threshold criteria, selection criteria, priorities and preferences are followed in making such allocations.

(b) **Program Statement.** The Department shall administer the program to encourage the development and preservation of appropriate types of rental housing for households that have difficulty finding suitable, accessible, affordable rental housing in the private marketplace; maximize the number of suitable, accessible, affordable residential rental units added to the state's housing supply; prevent losses for any reason to the state's supply of suitable, accessible, affordable residential rental units by enabling the rehabilitation of rental housing or by providing other preventive financial support; and provide for the participation of for-profit organizations and provide for and encourage the participation of nonprofit organizations in the acquisition, development and operation of accessible affordable housing developments in rural and urban communities.

(c) **Allocation Goals.** It shall be the goal of this Department and the Board, through these provisions, to encourage diversity through broad geographic allocation of tax credits within the state, and in accordance with the regional allocation formula, and to promote maximum utilization of the available tax credit amount. The processes and criteria utilized to realize this goal are described in §§49.8 and 49.9 of this title, without in any way limiting the effect or applicability of all other provisions of this title.

§49.2. Coordination with Rural Agencies.

To assure maximum utilization and optimum geographic distribution of tax credits in rural areas, and to achieve increased sharing of information, reduction of processing procedures, and fulfillment of Development compliance requirements in rural areas, the Department has entered into a Memorandum of Understanding (MOU) with the TX-USDA-RHS to coordinate on existing, rehabilitated, and new construction housing Developments financed by TX-USDA-RHS; and will jointly administer the Rural Set-Aside with the Texas Office of Rural Community Affairs (ORCA). ORCA will assist in developing all Threshold, Selection and Underwriting Criteria applied to Applications eligible for the Rural Set-Aside. The Criteria will be approved by that Agency. To ensure that the Rural Set-Aside receives a sufficient volume of eligible Applications, the Department and ORCA shall jointly implement outreach, training, and rural area capacity building efforts.

§49.3. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) **Administrative Deficiencies** - The absence of information or documents from the Application which are essential to a review and scoring of the Development. If an Application contains deficiencies which, in the determination of the Department staff, require clarification of information submitted at the time of the Application, the Department staff shall request correction of such Administrative Deficiencies. The Department staff shall provide this in a deficiency notice in the form of a facsimile and a telephone call to the Applicant advising that such a request has been transmitted. If such Administrative Deficiencies are not corrected to the satisfaction of the Department within three business days of the deficiency notice date, then five points shall be deducted from the Selection Criteria score for each additional day the deficiency remains uncorrected. If such deficiencies are not corrected within five business days from the deficiency notice date, then the Application shall be terminated. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. Deficiency notices may be sent to an Applicant prior to or after the end of the Application Acceptance Period.

(2) **Affiliate** - An individual, corporation, partnership, joint venture, limited liability company, trust, estate, association, cooperative or other organization or entity of any nature whatsoever that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with any other Person, and specifically shall include parents or subsidiaries.

(3) **Agreement and Election Statement** - A document in which the Development Owner elects, irrevocably, to fix the Applicable Percentage with respect to a building or buildings, as that in effect for the

month in which the Department and the Development Owner enter into a binding agreement as to the housing credit dollar amount to be allocated to such building or buildings.

(4) **Applicable Fraction** - The fraction used to determine the Qualified Basis of the qualified low income building, which is the smaller of the Unit fraction or the floor space fraction, all determined as provided in the Code, §42(c)(1).

(5) **Applicable Percentage** - The percentage used to determine the amount of the Housing Tax Credit, as defined more fully in the Code, §42(b). For purposes of the Application, the Applicable Percentage will be projected at 10 basis points above the greater of:

(A) the current applicable percentage for the month in which the Application is submitted to the Department, or

(B) the trailing 1-year, 2-year or 3-year average rate in effect during the month in which the Application is submitted to the Department.

(6) **Applicant** - Any Person or Affiliate of a Person who files a Pre-Application or an Application with the Department requesting a Housing Credit Allocation. For purposes hereof, the Applicant is sometimes referred to as the "housing sponsor."

(7) **Application** - An application, in the form prescribed by the Department, filed with the Department by an Applicant, including any exhibits or other supporting material.

(8) **Application Acceptance Period** - That period of time during which Applications for either a Housing Credit Allocation from the State Housing Credit Ceiling or a Determination Notice for Tax Exempt Bond Developments may be submitted to the Department as more fully described in §§49.9(a) and 49.22 of this title.

(9) **Application Round** - The period beginning on the date the Department begins accepting Applications and continuing until all available Housing Tax Credits from the State Housing Credit Ceiling (as stipulated by the Department) are allocated, but not extending past the last day of the calendar year.

(10) **Application Submission Procedures Manual** - The manual produced and amended from time to time by the Department which sets forth procedures, forms, and guidelines for the filing of Pre-Applications and Applications for Housing Tax Credits.

(11) **Area Median Gross Income (AMGI)** - Area median gross household income, as determined for all purposes under and in accordance with the requirements of the Code, §42.

(12) **At-Risk Development** - a Development that:

(A) receives the benefit of a subsidy in the form of a below-market interest rate loan, interest rate reduction, equity incentive, rental subsidy, Section 8 housing assistance payment, rental supplement payment, or rental assistance payment under the following federal laws, as applicable:

(i) Sections 221(d)(3), (4) and (5), National Housing Act (12 U.S.C. Section 1715l);

(ii) Section 236, National Housing Act (12 U.S.C. Section 1715z-1);

(iii) Section 202, Housing Act of 1959 (12 U.S.C. Section 1701q);

(iv) Section 101, Housing and Urban Development Act of 1965 (12 U.S.C. Section 1701s);

(v) any project-based assistance authority pursuant to Section 8 of the U.S. Housing Act of 1937;

(vi) Sections 514, 515, 516, and 538 Housing Act of 1949 (42 U.S.C. Sections 1484, 1485, and

1486); or

(vii) Section 42 of the Internal Revenue Code of 1986, and

(B) is subject to the following conditions:

(i) the stipulation to maintain affordability in the contract granting the subsidy is nearing expiration (expiration will occur within two calendar years of July 31 of the year the Application is submitted); or

(ii) the federally insured mortgage on the Development is eligible for prepayment or is nearing the end of its mortgage term (the term will end within two calendar years of July 31 of the year the Application is submitted).

(13) **Bedroom** - A portion of a Unit set aside for sleeping which is no less than 100 square feet; has no width or length less than 8 feet; has at least one window that provides exterior access; and has at least one closet that is not less than 2 feet deep and 3 feet wide and high enough to accommodate 5 feet of hanging space.

(14) **Beneficial Owner** - A "Beneficial Owner" means:

(A) Any Person who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise has or shares;

(i) voting power which includes the power to vote, or to direct the voting as any other Person or the securities thereof; and/or

(ii) investment power which includes the power to dispose, or direct the disposition of, any Person or the securities thereof.

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(B) Any Person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement or any other contract, arrangement or device with the purpose or effect of divesting such Person of Beneficial Ownership (as defined herein) of a security or preventing the vesting of such Beneficial Ownership as part of a plan or scheme to evade inclusion within the definitional terms contained herein; and

(C) Any Person who has the right to acquire Beneficial Ownership during the Compliance Period, including but not limited to any right to acquire any such Beneficial Ownership:

(i) through the exercise of any option, warrant or right,

(ii) through the conversion of a security,

(iii) pursuant to the power to revoke a trust, discretionary account or similar arrangement, or

(iv) pursuant to the automatic termination of a trust, discretionary account, or similar arrangement.

(D) Provided, however, that any Person who acquires a security or power specified in clauses (i), (ii) or (iii) of subparagraph (C) of this paragraph, with the purpose or effect of changing or influencing the control of any other Person, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition is deemed to be the Beneficial Owner of the securities which may be acquired through the exercise or conversion of such security or power. Any securities not outstanding which are subject to options, warrants, rights or conversion privileges as deemed to be outstanding for the purpose of computing the percentage of outstanding securities of the class owned by such Person but are not deemed to be outstanding for the purpose of computing the percentage of the class by any other Person.

(15) **Board** - The governing Board of Directors of the Department.

(16) **Carryover Allocation** - An allocation of current year tax credit authority by the Department pursuant to the provisions of the Code, §42(h)(1)(E) and Treasury Regulations, §1.42-6.

(17) **Carryover Allocation Document** - A document issued by the Department to a Development Owner pursuant to §49.14 of this title.

(18) **Carryover Allocation Procedures Manual** - The manual produced and amended from time to time by the Department which sets forth procedures, forms, and guidelines for filing Carryover Allocation requests.

(19) **Code** - The Internal Revenue Code of 1986, as amended from time to time, together with any applicable regulations, rules, rulings, revenue procedures, information statements or other official pronouncements issued thereunder by the United States Department of the Treasury or the Internal Revenue Service.

(20) **Colonia** - A geographic area located in a county some part of which is within 150 miles of the international border of this state and that:

(A) has a majority population composed of individuals and families of low income and very low income, based on the federal Office of Management and Budget poverty index, and meets the qualifications of an economically distressed area under §17.921, Water Code; or

(B) has the physical and economic characteristics of a colonia, as determined by the Department.

(21) **Commitment Notice** - A notice issued by the Department to a Development Owner pursuant to §49.13 of this title and also referred to as the "commitment."

(22) **Compliance Period** - With respect to a building, the period of 15 taxable years, beginning with the first taxable year of the Credit Period pursuant to the Code, §42(i)(1).

(23) **Control** - (including the terms "controlling," "controlled by", and/or "under common control with") the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any Person, whether through the ownership of voting securities, by contract or otherwise, including specifically ownership of more than 50% of the General Partner interest in a limited partnership, or designation as a managing General Partner or the managing member of a limited liability company.

(24) **Cost Certification Procedures Manual** - The manual produced and amended from time to time by the Department which sets forth procedures, forms, and guidelines for filing requests for IRS Form(s) 8609 for Developments placed in service under the Low Income Housing Tax Credit Program.

(25) **Credit Period** - With respect to a building within a Development, the period of ten taxable years beginning with the taxable year the building is placed in service or, at the election of the Development Owner, the succeeding taxable year, as more fully defined in the Code, §42(f)(1).

(26) **Department** - The Texas Department of Housing and Community Affairs, an agency of the State of Texas, established at Chapter 2306, Texas Government Code.

(27) **Determination Notice** - A notice issued by the Department to the Owner of a Tax Exempt Bond Development which states that the Development may be eligible to claim Housing Tax Credits without receiving an allocation of Housing Tax Credits from the State Housing Credit Ceiling because it satisfies the requirements of this QAP; sets forth conditions which must be met by the Development before the Department will issue the IRS Form(s) 8609 to the Development Owner; and specifies the Department's determination as to the amount of

tax credits necessary for the financial feasibility of the Development and its viability as a Development throughout the Credit Period.

(28) **Developer** - Any Person entering into a contract with the Development Owner to provide development services with respect to the Development and receiving a fee for such services (which fee cannot exceed 15% of the Eligible Basis) and any other Person receiving any portion of such fee, whether by subcontract or otherwise.

(29) **Development** - A proposed qualified low income housing Development, for new construction or rehabilitation, for purposes of the Code, §42(g), that consists of one or more buildings containing multiple Units, and that, if the Development shall consist of multiple buildings, is financed under a common plan and is owned by the same Person for federal tax purposes, and the buildings of which are either:

(A) located on a single site or contiguous site; or

(B) located on scattered sites and contain only rent-restricted units.

(30) **Development Consultant** - Any Person (with or without ownership interest in the Development) who provides professional services relating to the filing of an Application, Carryover Allocation Document, and/or cost certification documents.

(31) **Development Owner** - Any Person, General Partner, or Affiliate of a Person who owns or proposes a Development or expects to acquire control of a Development under a purchase contract approved by the Department.

(32) **Development Team** - All Persons or Affiliates thereof which play(s) a role in the development, construction, rehabilitation, management and/or continuing operation of the subject Property, which will include any Development Consultant and anyone who provides, or is anticipated to provide, a guarantee to secure equity or financing for the transaction for a fee.

(33) **Economically Distressed Area** - Consistent with §17.921 of Texas Water Code, an area in which:

(A) water supply or sewer services are inadequate to meet minimal needs of residential users as defined by board rules;

(B) financial resources are inadequate to provide water supply or sewer services that will satisfy those needs; and

(C) an established residential subdivision was located on June 1, 1989, as determined by the Texas Water Development Board.

(34) **Eligible Basis** - With respect to a building within a Development, the building's Eligible Basis as defined in the Code, §42(d).

(35) **Executive Award and Review Advisory Committee** ("The Committee") - A Departmental committee that will make funding and commitment recommendations to the Board based upon the evaluation of an Application in accordance with the housing priorities as set forth in Chapter 2306 of the Texas Government Code, and as set forth herein, and the ability of an Applicant to meet those priorities.

(36) **Extended Low Income Housing Commitment** - An agreement between the Department, the Development Owner and all successors in interest to the Development Owner concerning the extended low income housing use of buildings within the Development throughout the extended use period as provided in the Code, §42(h)(6). The Extended Low Income Housing Commitment with respect to a Development is expressed in the LURA applicable to the Development.

(37) **General Contractor** - One who contracts for the construction or rehabilitation of an entire building or Development, rather than a portion of the work. The General Contractor hires subcontractors, such as plumbing contractors, electrical contractors, etc., coordinates all work, and is responsible for payment to the said subcontractors. This party may also be referred to as the "contractor."

(38) **General Developments** - Any Development which is not a Qualified Nonprofit Development or is not under consideration in the Rural, At-Risk Development or Elderly Set-Asides as such terms are defined by the Department.

(39) **General Partner** - That partner, or collective of partners, identified as the general partner of the partnership that is the Development Owner and that has general liability for the partnership. In addition, unless the context shall clearly indicate to the contrary, if the entity in question is a limited liability company, the term "General Partner" shall also mean the managing member or other party with management responsibility for the limited liability company.

(40) **General Pool** - The pool of Housing Tax Credits that have been returned or recovered from prior years' allocations or the current year's Commitment Notices after the Board has made its initial commitment of the current year's available State Housing Credit Ceiling. General Pool Housing Tax Credits will be used to fund Applications on the waiting list.

(41) **Governmental Entity** - Includes federal or state agencies, departments, boards, bureaus, commissions, authorities, and political subdivisions, special districts and other similar entities.

- (42) **Historic Development** - A residential Development that has received a historic property designation by a federal, state or local government entity.
- (43) **Historically Underutilized Businesses (HUB)** - Any entity defined as an historically underutilized business with its principal place of business in the State of Texas in accordance with Chapter 2161, Texas Government Code.
- (44) **Housing Credit Agency** - A Governmental Entity charged with the responsibility of allocating Housing Tax Credits pursuant to the Code, §42. For the purposes of this title, the Department is the sole "Housing Credit Agency" of the State of Texas.
- (45) **Housing Credit Allocation** - An allocation by the Department to a Development Owner of Housing Tax Credit in accordance with §49.17 of this title.
- (46) **Housing Credit Allocation Amount** - With respect to a Development or a building within a Development, that amount the Department determines to be necessary for the financial feasibility of the Development and its viability as a Development throughout the Compliance Period and allocates to the Development.
- (47) **Housing Tax Credit** ("tax credits") - A tax credit allocated, or for which a Development may qualify, under the Low Income Housing Tax Credit Program, pursuant to the Code, §42.
- (48) **HUD** - The United States Department of Housing and Urban Development, or its successor.
- (49) **Ineligible Building Types** - Those buildings or facilities which are ineligible, pursuant to this QAP, for funding under the Low Income Housing Tax Credit Program as follows:
- (A) Hospitals, nursing homes, trailer parks and dormitories (or other buildings that will be predominantly occupied by students) or other facilities which are usually classified as transient housing (other than certain specific types of transitional housing for the homeless and single room occupancy units, as provided in the Code, §§42(i)(3)(B)(iii) and (iv)) are not eligible. However, structures formerly used as hospitals, nursing homes or dormitories are eligible for Housing Tax Credits if the Development involves the conversion of the building to a non-transient multifamily residential development.
 - (B) Any Qualified Elderly Development of two stories or more that does not include elevator service for any Units or living space above the first floor.
 - (C) Any Development with building(s) with four or more stories that does not include an elevator.
- (50) **IRS** - The Internal Revenue Service, or its successor.
- (51) **Land Use Restriction Agreement (LURA)** - An agreement between the Department and the Development Owner which is binding upon the Development Owner's successors in interest, that encumbers the Development with respect to the requirements of this title and the requirements of the Code, §42.
- (52) **Material Deficiencies** - Deficiencies that are not eligible to be remedied pursuant to paragraph (1) of this subsection. Deficiencies caused by the omission of Threshold Criteria documentation specifically required by §49.9(e) of this title shall automatically be considered Material Deficiencies and shall be cause for termination.
- (53) **Material Non-Compliance** - A property located within the state of Texas will be classified by the Department as being in material non-compliance status if the non-compliance score for such property is equal to or exceeds 30 points in accordance with the provisions of §49.5(b)(6) of this title and under the methodology and point system set forth in §49.19 of this title. A property located outside the state of Texas will be classified by the Department as being in Material Non-compliance status if the non-compliance score for such property is equal to or exceeds 30 points in accordance with the provisions of §49.5(b)(7) of this title and under the methodology and point system set forth in §49.19 of this title.
- (54) **Minority Owned Business** - A business entity at least 51% of which is owned by members of a minority group or, in the case of a corporation, at least 51% of the shares of which are owned by members of a minority group, and that is managed and controlled by members of a minority group in its daily operations. Minority group includes women, African Americans, American Indians, Asian Americans, and Mexican Americans and other Americans of Hispanic origin.
- (55) **ORCA** - Office of Rural Community Affairs, as established by Chapter 487 of Texas Local Government Code.
- (56) **Person** - Means, without limitation, any natural person, corporation, partnership, limited partnership, joint venture, limited liability company, trust, estate, association, cooperative, government, political subdivision, agency or instrumentality or other organization of any nature whatsoever and shall include any group of Persons acting in concert toward a common goal.
- (57) **Persons with Disabilities** - A person who:
- (A) has a physical, mental or emotional impairment that:
 - (i) is expected to be of a long, continued and indefinite duration,
 - (ii) substantially impedes his or her ability to live independently, and
 - (iii) is of such a nature that the ability could be improved by more suitable housing conditions, or

(B) has a developmental disability, as defined in Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001-6007).

(58) **Pre-Application** - A preliminary application, in a form prescribed by the Department, filed with the Department by an Applicant prior to submission of the Application, including any required exhibits or other supporting material, as more fully described in §§49.8 and 49.22 of this title.

(59) **Pre-Application Acceptance Period** - That period of time during which Pre-Applications for a Housing Credit Allocation from the State Housing Credit Ceiling may be submitted to the Department.

(60) **Principal** - the term Principal is defined as Persons that will have an ownership interest in, or that will exercise Control over, a partnership, corporation, limited liability company, trust, or any other public or private entity and their Affiliates that will have an ownership interest in, or that will exercise Control over, the Applicant. In the case of:

(A) partnerships, Principals include all General Partners regardless of their percentage interest;

(B) corporations, Principals include the president, vice president, secretary, treasurer and all other executive officers who are directly responsible to the board of directors or any equivalent governing body as well as all directors and each stock holder having a ten percent or more interest in the corporation; and

(C) limited liability companies, Principals include all members, regardless of their percentage interest.

(61) **Prison Community** - A city or town which is located outside of a Metropolitan Statistical Area (MSA) or Primary Metropolitan Statistical Area (PMSA) and was awarded a state prison.

(62) **Property** - The real estate and all improvements thereon which are the subject of the Application (including all items of personal property affixed or related thereto), whether currently existing or proposed to be built thereon in connection with the Application.

(63) **Qualified Allocation Plan (QAP)** - A plan adopted by the Board, and approved by the Governor, under this title, and as provided in the Code, § 42(m)(1) (specifically including preference for Developments located in Qualified Census Tracts and the development of which contributes to a concerted community revitalization plan) and as further provided in §§49.1 through 49.24 of this title, that:

(A) provides the threshold and scoring, and underwriting process based on housing priorities of the Department that are appropriate to local conditions; and

(B) gives preference in Housing Credit Allocations to Developments that, as compared to other Developments:

(i) when practicable and feasible based on available funding sources, serve the lowest income tenants; and

(ii) are affordable to qualified tenants for the longest economically feasible period; and

(C) provides a procedure for the Department, the Department's agent, or another private contractor of the Department to use in monitoring compliance with the Qualified Allocation Plan.

(64) **Qualified Basis** - With respect to a building within a Development, the building's Eligible Basis multiplied by the Applicable Fraction, within the meaning of the Code, §42(c)(1).

(65) **Qualified Census Tract** - Any census tract which is so designated by the Secretary of HUD in accordance with the Code, §42(d)(5)(C)(ii).

(66) **Qualified Elderly Development** - A Development which meets the requirements of the federal Fair Housing Act and:

(A) is intended for, and solely occupied by, individuals 62 years of age or older; or

(B) is intended and operated for occupancy by at least one individual 55 years of age or older per Unit, where at least 80% of the total housing Units are occupied by at least one individual who is 55 years of age or older; and where the Development Owner publishes and adheres to policies and procedures which demonstrate an intent by the owner and manager to provide housing for individuals 55 years of age or older.

(67) **Qualified Market Analyst** - A real estate appraiser certified or licensed by the Texas Appraiser or Licensing and Certification Board or a real estate consultant or other professional currently active in the subject property's market area who demonstrates competency, expertise, and the ability to render a high quality written report. The individual's experience and educational background will provide the general basis for determining competency as a Market Analyst. Such determination will be at the sole discretion of the Department. The Qualified Market Analyst must be a Third Party.

(68) **Qualified Nonprofit Organization** - An organization that is described in the Code, §501(c)(3) or (4), as these cited provisions may be amended from time to time, that is exempt from federal income taxation under the Code, §501(a), that is not Affiliated with or Controlled by a for profit organization, and includes as one of its exempt purposes the fostering of low income housing within the meaning of the Code, §42(h)(5)(C). A Qualified Nonprofit Organization may select to compete in one or more of the Set-Asides, including, but not limited to, the nonprofit Set-Aside, the rural developments Set-Aside, the At-Risk Development Set-Aside and the general Set-Aside.

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(69) **Qualified Nonprofit Development** - A Development in which a Qualified Nonprofit Organization (directly or through a partnership or wholly-owned subsidiary) holds a controlling interest, materially participates (within the meaning of the Code, §469(h), as it may be amended from time to time) in its development and operation throughout the Compliance Period, and otherwise meets the requirements of the Code, §42(h)(5).

(70) **Reference Manual** - That certain manual, and any amendments thereto, produced by the Department which sets forth reference material pertaining to the Low Income Housing Tax Credit Program.

(71) **Related Party** - As defined,

(A) The following individuals or entities:

- (i) the brothers, sisters, spouse, ancestors, and descendants of a person within the third degree of consanguinity, as determined by Chapter 573 of the Texas Government Code;
- (ii) a person and a corporation, if the person owns more than 50 percent of the outstanding stock of the corporation;
- (iii) two or more corporations that are connected through stock ownership with a common parent possessing more than 50 percent of:
 - (I) the total combined voting power of all classes of stock of each of the corporations that can vote;
 - (II) the total value of shares of all classes of stock of each of the corporations; or
 - (III) the total value of shares of all classes of stock of at least one of the corporations, excluding, in computing that voting power or value, stock owned directly by the other corporation;
- (iv) a grantor and fiduciary of any trust;
- (v) a fiduciary of one trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
- (vi) a fiduciary of a trust and a beneficiary of the trust;
- (vii) a fiduciary of a trust and a corporation if more than 50 percent of the outstanding stock of the corporation is owned by or for:
 - (I) the trust; or
 - (II) a person who is a grantor of the trust;
- (viii) a person or organization and an organization that is tax-exempt under the Code, §501(a), and that is controlled by that person or the person's family members or by that organization;
- (ix) a corporation and a partnership or joint venture if the same persons own more than:
 - (I) 50 percent of the outstanding stock of the corporation; and
 - (II) 50 percent of the capital interest or the profits' interest in the partnership or joint venture;
- (x) an S corporation and another S corporation if the same persons own more than 50 percent of the outstanding stock of each corporation;
- (xi) an S corporation and a C corporation if the same persons own more than 50 percent of the outstanding stock of each corporation;
- (xii) a partnership and a person or organization owning more than 50 percent of the capital interest or the profits' interest in that partnership; or
- (xiii) two partnerships, if the same person or organization owns more than 50 percent of the capital interests or profits' interests.

(B) As a note to Applicants, nothing in this definition is intended to constitute the Department's determination as to what relationship might cause entities to be considered "related" for various purposes under the Code.

(72) **Rules** - The Department's Low Income Housing Tax Credit Rules as presented in this title.

(73) **Rural Area** - An area that is located:

- (A) outside the boundaries of a primary metropolitan statistical area or a metropolitan statistical area;
- (B) within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area, if the statistical area has a population of 20,000 or less and does not share a boundary with an urban area; or
- (C) in an area that is eligible for new construction or rehabilitation funding by TX-USDA-RHS.

(74) **Rural Development** - A Development located within a Rural Area and for which the Applicant applies for tax credits under the Rural Set-Aside.

(75) **Selection Criteria** - Criteria used to determine housing priorities of the State under the Low Income Housing Tax Credit Program as specifically defined in §49.9(f) of this title.

(76) **Set-Aside** - A reservation of a portion of the available Housing Tax Credits to provide financial support for specific types of housing or geographic locations or serve specific types of Applicants on a priority basis as permitted by the Qualified Allocation Plan.

(77) **State Housing Credit Ceiling** - The limitation imposed by the Code, §42(h), on the aggregate amount of Housing Credit Allocations that may be made by the Department during any calendar year, as determined from time to time by the Department in accordance with the Code, §42(h)(3).

(78) **Student Eligibility** - Per the Code, §42(l)(3)(D), "A unit shall not fail to be treated as a low-income unit merely because it is occupied:

(A) by an individual who is:

(i) a student and receiving assistance under Title IV of the Social Security Act (42 U.S.C. §§ 601 et seq.), or

(ii) enrolled in a job training program receiving assistance under the Job Training Partnership Act (29 USCS §§ 1501 et seq., generally; for full classification, consult USCS Tables volumes) or under other similar Federal, State, or local laws, or

(B) entirely by full-time students if such students are:

(i) single parents and their children and such parents and children are not dependents (as defined in section 152) of another individual, or

(ii) married and file a joint return."

(79) **Tax Exempt Bond Development** - A Development which receives a portion of its financing from the proceeds of tax exempt bonds which are subject to the state volume cap as described in the Code, §42(h)(4)(B), such that the Development does not receive an allocation of tax credit authority from the State Housing Credit Ceiling.

(80) **Third Party** - a Person who is not an Affiliate, Related Party or Beneficial Owner of the Applicant, General Partner, Developer or Person(s) receiving a portion of the contractor fee.

(81) **Threshold Criteria** - Criteria used to determine whether the Development satisfies the minimum level of acceptability for consideration as specifically defined in §49.9(e) of this title.

(82) **Total Housing Development Cost** - The total of all costs incurred or to be incurred by the Development Owner in acquiring, constructing, rehabilitating and financing a Development, as determined by the Department based on the information contained in the Applicant's Application. Such costs include reserves and any expenses attributable to commercial areas. Costs associated with the sale or use of Housing Tax Credits to raise equity capital shall also be included in the Total Housing Development Cost. Such costs include but are not limited to syndication and partnership organization costs and fees, filing fees, broker commissions, related attorney and accounting fees, appraisal, engineering, and the environmental site assessment.

(83) **TX-USDA-RHS** - The Rural Housing Services (RHS) of the United States Department of Agriculture (USDA) serving the State of Texas (formerly known as TxFmHA) or its successor.

(84) **Unit** - Any residential rental unit in a Development consisting of an accommodation including a single room used as an accommodation on a non-transient basis, that contains separate and complete physical facilities and fixtures for living, sleeping, eating, cooking and sanitation.

§49.4. State Housing Credit Ceiling.

The Department shall determine the State Housing Credit Ceiling for each calendar year as provided in the Code, §42(h)(3)(C), using such information and guidance as may be made available by the Internal Revenue Service. The Department shall publish each such determination in the *Texas Register* within 30 days after the receipt of such information as is required for that purpose by the Internal Revenue Service. The aggregate amount of commitments of Housing Credit Allocations made by the Department during any calendar year shall not exceed the State Housing Credit Ceiling for such year as provided in the Code, §42. Housing Credit Allocations made to Tax Exempt Bond Developments are not included in the State Housing Credit Ceiling.

§49.5. Ineligibility, Disqualification and Debarment, Applicant Standards, Representation by Former Board Member or Other Person.

(a) **Ineligibility.** An Application will be ineligible if:

(1) A member of the Development Team has been or is barred, suspended, or terminated from procurement in a state or federal program or listed in the List of Parties Excluded from Federal Procurement or Non-Procurement Programs; or,

(2) A member of the Development Team has been or is convicted of, under indictment for, or on probation for a state or federal crime involving fraud, bribery, theft, misrepresentations of material facts, misappropriation of funds, or other similar criminal offenses; or,

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(3) A member of the Development Team has been or is subject to enforcement action under state or federal securities law, or is the subject of an enforcement proceeding with any Governmental Entity unless such action has been concluded and no adverse action or finding (or entry into a consent order) has been taken with respect to such member; or

(4) A member of the Development Team with any past due audits has not submitted those past due audits to the Department in a satisfactory format on or before the close of the Application Acceptance Period. A Person is not eligible to receive a commitment of Housing Tax Credits from the Department if any audit finding or questioned or disallowed cost is unresolved as of June 1 of each year, or for Tax Exempt Bond Developments is unresolved as of the date the Application is submitted.

(b) Disqualification and Debarment. Additionally, the Department will disqualify an Application, or debar a Person, if it is determined by the Department that those issues identified in paragraphs (1) through (10) of this subsection exist. A Person debarred by the Department from participation in the Low Income Housing Tax Credit Program, or an Applicant whose Application has been disqualified, may appeal the debarment or disqualification to the Board. The Department shall debar a Person for the longer of, one year from the date of debarment, or until the violation causing the debarment has been remedied. Causes for disqualification and debarment include:

(1) fraudulent information, knowingly false documentation or other material misrepresentation has been provided in the Application or other information submitted to the Department. The aforementioned policy will apply at any stage of the evaluation or approval process; or,

(2) at the time of Application or at any time during the two-year period preceding the date the application round begins (or for Tax Exempt Bond Developments any time during the two-year period preceding the date the Application is submitted to the Department), the Applicant or a Related Party is or has been:

(A) a member of the Board; or

(B) the executive director, the deputy executive director for programs, the deputy executive director for housing operations, the director of multifamily finance production, the director of portfolio management and compliance or the director of real estate analysis employed by the Department.

(3) the Applicant, the Development Owner, or the General Contractor, or any Affiliate of the Applicant, the Development Owner, or the General Contractor that is active in the ownership or control of one or more other tax credit properties in the state of Texas who received a commitment of tax credits in the 2001 or 2002 Application Round but did not close the construction loan, or meet the deadlines for the commencement of substantial construction as required under the Carryover Allocation (including any extension period granted by the Board) except for instances where an extension has been approved by the Board.

(4) the Applicant proposes to replace in less than 15 years any private activity bond financing of the Development described by the Application, unless:

(A) the Applicant proposes to maintain for a period of 30 years or more 100 percent of the Development Units supported by Housing Tax Credits as rent-restricted and exclusively for occupancy by individuals and families earning not more than 50 percent of the Area Median Gross Income, adjusted for family size; and

(B) at least one-third of all the units in the Development are public housing units or Section 8 Development-based units; or,

(5) the Applicant, the Development Owner, or the General Contractor, or any Affiliate of the Applicant, the Development Owner, or the General Contractor that is active in the ownership or control of one or more other tax credit properties has failed to place in service buildings or removed from service buildings for which credits were allocated (either Carryover Allocation or issuance of 8609s). The Department may consider the facts and circumstances on a case-by-case basis, including whether the credits were returned prior to the expiration date for re-issuance of the credits, in its sole determination of Applicant eligibility; or,

(6) the Applicant, the Development Owner, or the General Contractor, or any Affiliate of the Applicant, the Development Owner, or the General Contractor that is active in the ownership or control of one or more other low income rental housing properties in the state of Texas funded by the Department is in Material Non-Compliance with the LURA (or any other document containing an Extended Low Income Housing Commitment) or the program rules in effect for such property on the date the Application Round closes or upon the date of filing Volume I of the Application for a Tax Exempt Bond Development, and such Material-Noncompliance is not corrected as provided herein. Any corrective action documentation affecting the Material Non-Compliance status score for Applicant's competing in the 2003 Application Round must be received by the Department no later than February 1, 2003, and any corrective action documentation affecting the Material Non-Compliance status score for Applicants with a Tax Exempt Bond Development must be received by the Department no later than 30 days prior to the submission of Volume I. The Department may take into consideration the representations of the Applicant regarding compliance violations described in §49.9(e)(8)(C) and (D) of this title; however, the records of the Department are controlling; or,

(7) the Applicant, the Development Owner, or the General Contractor, or any Affiliate of the Applicant, the Development Owner, or the General Contractor that is active in the ownership or control of one or more other low income rental housing properties outside of the state of Texas has incidence of non-compliance with the LURA or the program rules in effect for such tax credit property as reported on the Uniform Application Previous Participation Certification and/or as determined by the state regulatory authority for such state and such non-compliance is determined to be Material Non-Compliance by the Department using methodology as set forth in §49.19 of this title; or,

(8) the Applicant, the Development Owner, or the General Contractor, or any Affiliate of the Applicant, the Development Owner, or the General Contractor that is active in the ownership or control of one or more other tax credit properties in the state of Texas has failed to pay in full any fees billed by the Department after the due date has passed, as further described in §49.21 of this title; or

(9) the Development is located on a site that has been determined to be "unacceptable" by the Department staff; or

(10) the Applicant or a Related Party, the Development Owner, or the General Contractor, or any Affiliate of the Applicant, the Development Owner, or the General Contractor that is active in the ownership or control of the Development, or individual employed as a lobbyist or in another capacity on behalf of the Development, communicates with any Board member or member of the Committee with respect to the Development during the period of time starting with the time an Application is submitted until the time the Board makes a final decision with respect to any approval of that Application, unless the communication takes place at any board meeting or public hearing held with respect to that Application.

(c) Certain Applicant and Development Standards. Notwithstanding any other provision of this section, the Department may not allocate tax credits to a Development proposed by an Applicant if the Department determines that:

(1) the Development is not necessary to provide needed decent, safe, and sanitary housing at rentals or prices that individuals or families of low and very low income or families of moderate income can afford;

(2) the housing sponsor undertaking the proposed Development will not supply well-planned and well-designed housing for individuals or families of low and very low income or families of moderate income;

(3) the housing sponsor is not financially responsible;

(4) the housing sponsor has, or will enter into a contract for the proposed Development with, a Person that:

(A) is on the Department's debarred list, including any parts of that list that are derived from the debarred list of the United States Department of Housing and Urban Development;

(B) breached a contract with a public agency; or

(C) misrepresented to a subcontractor the extent to which the Developer has benefited from contracts or financial assistance that has been awarded by a public agency, including the scope of the Developer's participation in contracts with the agency and the amount of financial assistance awarded to the Developer by the agency;

(5) the financing of the housing Development is not a public purpose and will not provide a public benefit; and

(6) the Development will be undertaken outside the authority granted by this chapter to the multifamily finance production division and the housing sponsor.

(d) Representation by Former Board Member or Other Person.

(1) A former Board member or a former executive director, deputy executive director for programs, deputy executive director for housing operations, director of multifamily finance production, director of portfolio management and compliance or director of real estate analysis previously employed by the Department may not:

(A) for compensation, represent an Applicant or one of its Related Parties for an allocation of tax credits before the second anniversary of the date that the Board member's, director's, or manager's service in office or employment with the Department ceases;

(B) represent any Applicant or a Related Party of an Applicant or receive compensation for services rendered on behalf of any Applicant or Related Party regarding the consideration of an Application in which the former board member, director, or manager participated during the period of service in office or employment with the Department, either through personal involvement or because the matter was within the scope of the board member's, director's, or manager's official responsibility; or for compensation, communicate directly with a member of the legislative branch to influence legislation on behalf of an Applicant or Related Party before the second anniversary of the date that the board member's, director's, or manager's service in office or employment with the Department ceases.

(2) A Person commits an offense if the Person violates this section. An offense under this section is a Class A misdemeanor.

§49.6. Site and Development Restrictions: Floodplain, Ineligible Building Types, Scattered Site Limitations, Credit Amount, Limitations on the Size of Developments, Rehabilitation Costs.

(a) **Floodplain.** Any Development located within the 100 year floodplain as identified by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps must develop the site so that all finished ground floor elevations are at least one foot above the flood plain and parking and drive areas are no lower than six inches below the floodplain, subject to more stringent local requirements. If no FEMA Flood Insurance Rate Maps are available for the proposed Development, flood zone documentation must be provided from the local government with jurisdiction identifying the 100 year floodplain.

(b) **Ineligible Building Types.** Applications involving Ineligible Building Types as defined in §49.3(49) of this title will not be considered for allocation of tax credits under this QAP and the Rules.

(c) **Scattered Site Limitations.** Consistent with §49.3(29) of this title, a Development must be financed under a common plan, be owned by the same Person for federal tax purposes, and the buildings may be either located on a single site or contiguous site, or be located on scattered sites and contain only rent-restricted units.

(d) **Credit Amount.** The Department shall issue tax credits only in the amount needed for the financial feasibility and viability of a Development throughout the Compliance Period. The issuance of tax credits or the determination of any allocation amount in no way represents or purports to warrant the feasibility or viability of the Development by the Department, or that the Development will qualify for and be able to claim such Housing Tax Credits. The Department will limit the allocation of tax credits to no more than \$1.2 million per Development. The Department shall not allocate more than \$1.6 million of tax credits in any given Application Round to any Applicant, Developer, or entity that provides, or is anticipated to provide, for a fee, a guarantee to secure equity or financing for the transaction. Tax Exempt Bond Development Applications are not subject to these Housing Tax Credit limitations, and Tax Exempt Bond Developments will not count towards the total limit on tax credits per Applicant. The limitation does not apply:

(1) to an entity which raises or provides equity for one or more Developments, solely with respect to its actions in raising or providing equity for such Developments (including syndication related activities as agent on behalf of investors);

(2) to the provision by an entity of "qualified commercial financing" within the meaning of the Code (without regard to the 80% limitation thereof);

(3) to a Qualified Nonprofit Organization or other not-for-profit entity, to the extent that the participation in a Development by such organization consists only of the provision of loan funds, grants or social services; and

(4) to a Development Consultant with respect to the provision of consulting services.

(e) Limitations on the Size of Developments.

(1) The minimum Development size will be 16 Units.

(2) Rural Developments involving new construction will be limited to 76 Units unless the Market Analysis clearly documents that larger developments are consistent with the comparables in the community and that there is significant demand for additional Units. Rural Developments exceeding 76 Units based on the Market Analysis will be ineligible for the Rural Set-Aside.

(3) Developments involving new construction, that are not Tax Exempt Bond Developments, will be limited to 250 Units. Tax Exempt Bond Developments will be limited to 280 Units. For the 2004 Application Round, Developments involving new construction, that are not Tax Exempt Bond Developments, will be limited to 250 Units, wherein the maximum rent restricted Units will be limited to 200 Units. For Applicants competing in the 2004 Texas Bond Review Board Multifamily Lottery, Tax Exempt Bond Developments will be limited to 250 Units. These maximum Unit limitations also apply to those Developments which involve a combination of rehabilitation and new construction. Developments that consist solely of acquisition/rehabilitation or rehabilitation only may exceed the maximum Unit restrictions. For those Developments which are a second phase or are otherwise adjacent to an existing tax credit Development unless such proposed Development is being constructed to provide replacement of previously existing affordable multifamily units on its site (in a number not to exceed the original units being replaced) or that were originally located within a one mile radius from the proposed Development, the combined Unit total for the Developments may not exceed the maximum allowable Development size, unless the first phase has been completed and has attained Sustaining Occupancy for at least six months.

(f) **Rehabilitation Costs.** Rehabilitation Developments must establish that the rehabilitation will substantially improve the condition of the housing and will involve at least \$6,000 per Unit in direct hard costs.

§49.7. Regional Allocation Formula, Set-Asides, Redistribution of Credits.

(a) **Regional Allocation Formula.** As required by §2306.111 of the Texas Government Code, the Department will use a regional distribution formula developed by the Department to distribute credits from the State Housing Credit Ceiling. The formula will be based on the need for housing assistance, and the availability of housing resources, and the Department will use the information contained in the Department's annual state low income housing plan and other appropriate data to develop the formula. This formula will establish targeted tax credit amounts for each of the Uniform State Service Regions. Each Uniform State Service Region's targeted tax credit amount will be published in the *Texas Register* and on the Department's web site concurrently with the publication of the QAP.

(b) **Set-Asides.** The regional credit distribution amounts are additionally subject to the factors presented in paragraphs (1) through (5) of this subsection. An Applicant may elect to compete in as many of the following Set-Asides for which the proposed Development would qualify:

(1) At least 10% of the State Housing Credit Ceiling for each calendar year shall be allocated to Qualified Nonprofit Developments which meet the requirements of the Code, §42(h)(5). Qualified Nonprofit Organizations must have a controlling interest in the Qualified Nonprofit Development applying for this Set-Aside. If the organization's Application is filed on behalf of a limited partnership, the Qualified Nonprofit Organization must be the managing General Partner. If the organization's Application is filed on behalf of a limited liability company, the Qualified Nonprofit Organization must be the Managing Member.

(2) At least 15% of the State Housing Credit Ceiling for each calendar year shall be allocated to Developments which meet the Rural Development definition or are located in Prison Communities. Rural Developments applying for greater than 76 Units will be ineligible for the Rural Set-Aside. Of this 15% allocation, 25% will be set aside for Developments financed through TX-USDA-RHS. Developments financed through TX-USDA-RHS's 538 Guaranteed Rural Rental Housing Program will not be considered under the 25% portion. Should there not be sufficient qualified Applications submitted for the TX-USDA-RHS Set-Aside, then the credits would revert to Developments that meet the Rural Development definition or are located in Prison Communities.

(3) At least 15% of the State Housing Credit Ceiling will be set aside for allocation under the At-Risk Development Set-Aside. Through this Set-Aside, the Department, to the extent possible, shall allocate credits to Applications involving the preservation of developments designated as At-Risk Developments as defined in §49.3(12) of this title and in both urban and rural communities in approximate proportion to the housing needs of each Uniform State Service Region.

(4) At least 60% of the State Housing Credit Ceiling will be allocated to General Set-Aside.

(5) At least 15% of the State Housing Credit Ceiling for each calendar year shall be allocated to Qualified Elderly Developments.

(c) **Redistribution of Credits.** If any amount of housing tax credits remain after the initial commitment of housing tax credits among the Uniform State Service Regions and Set-Asides, the Department may redistribute the credits amongst the different regions and Set-Asides depending on the quality of Applications submitted as evaluated under the factors described in §49.9(c) of this title and the level of demand exhibited in the Uniform State Service Regions during the Allocation Round. However as described in paragraph (b)(1) of this section, no more than 90% of the State's Housing Credit Ceiling for the calendar year may go to Developments which are not Qualified Nonprofit Developments. If credits will be transferred from a Uniform State Service Region which does not have enough qualified Applications to meet its regional credit distribution amount, then those credits will be apportioned to the other Uniform State Service Regions.

§49.8. Pre-Application: Submission, Evaluation Process, Threshold Criteria and Review, Results.

(a) **Pre-Application Submission.** Any Applicant requesting a Housing Credit Allocation may submit a Pre-Application to the Department during the Pre-Application Acceptance Period along with the required Pre-Application Fee as described in §49.21 of this title. Only one Pre-Application may be submitted by an Applicant for each site under the State Housing Credit Ceiling. The Pre-Application submission is a voluntary process. While the Pre-Application Acceptance Period is open, Applicants may withdraw their Pre-Application and subsequently file a new Pre-Application along with the required Pre-Application Fee. The Department is authorized to request the Applicant to provide additional information it deems relevant to clarify information contained in the Pre-Application or to submit documentation for items it considers to be an Administrative Deficiency. The rejection of a Pre-Application shall not preclude an Applicant from submitting an Application with respect to a particular Development or site at the appropriate time.

(b) **Pre-Application Evaluation Process.** Eligible Pre-Applications will be evaluated for Pre-Application Threshold Criteria, and as requested by the Applicant, evaluated in regards to the Department's concentration policy. Any Application from a TX-USDA-RHS 515 Development (including new construction and rehabilitation) is exempted from the Pre-Application Evaluation Process and are not eligible to receive points for submission of a Pre-Application. An Application that has not received confirmation from the state office of RHS of its financing from TX-USDA-RHS may qualify for Pre-Application points, but such points shall be withdrawn upon the Development's receipt of TX-USDA-RHS financing.

(c) **Pre-Application Threshold Criteria and Review.** Applicants submitting a Pre-Application will be required to submit information demonstrating their satisfaction of the Pre-Application Threshold Criteria. The Pre-Applications not meeting the Pre-Application Threshold Criteria will be terminated and the Applicant will receive a written notice to the effect that the Pre-Application Threshold Criteria have not been met. The Department shall not be responsible for the Applicant's failure to meet the Pre-Application Threshold Criteria and any failure of the Department's staff to notify the Applicant of such inability to satisfy the Pre-Application Threshold Criteria shall not confer upon the Applicant any rights to which it would not otherwise be entitled. The Pre-Application Threshold Criteria include:

- (1) Submission of a "Pre-Application Submission Form" and "Pre-Application Self-Scoring Form," and
- (2) Evidence of site control as evidenced by the documentation required under §49.9(e)(6)(A) of this title.

(d) **Pre-Application Results.** Only Pre-Applications which have satisfied all of the Pre-Application Threshold Criteria requirements set forth in subsection (c) of this section, will be eligible for Pre-Application points. The order and scores of those Developments released on the Pre-Application Submission log do not represent a commitment on the part of the Department or the Board to allocate tax credits to any Development and the Department bears no liability for decisions made by Applicants based on the results of the Pre-Application Submission Log. Inclusion of a Development on the Pre-Application Submission Log does not ensure that an Applicant will receive points for a Pre-Application. To receive points an Applicant must meet the requirements of §49.9(f)(11) of this title.

§49.9. Application: Submission, Adherence to Obligations, Evaluation Process, Required Pre-Certification and Acknowledgement, Threshold Criteria, Selection Criteria, Evaluation Factors, Staff Recommendations.

(a) **Application Submission.** Any Applicant requesting a Housing Credit Allocation or a Determination Notice must submit an Application, and the required Application fee as described in §49.21 of this title, to the Department during the Application Acceptance Period. A complete Application may be submitted at any time during the Application Acceptance Period, and is not limited to submission after the close of the Pre-Application Cycle. Only one Application may be submitted for a site in an Application Round. While the Application Acceptance Period is open, Applicants may withdraw their Application and subsequently file a new Application along with a new required Application fee. The Department is authorized, but not required, to request the Applicant to provide additional information it deems relevant to clarify information contained in the Application or to submit documentation for items it considers to be an Administrative Deficiency, including both threshold and selection criteria documentation. An Applicant may not change or supplement an Application in any manner after the filing deadline, except as it relates to a direct request from the Department to remedy an Administrative Deficiency as further described in §49.3(1) of this title or to the amendment of an Application after a commitment or allocation of tax credits as further described in §49.18 of this title.

(b) **Adherence to Obligations.** All representations, undertakings and commitments made by an Applicant in the application process for a Development, whether with respect to Threshold Criteria, Selection Criteria or otherwise, shall be deemed to be a condition to any Commitment Notice, Determination Notice, or Carryover Allocation for such Development, the violation of which shall be cause for cancellation of such Commitment Notice, Determination Notice, or Carryover Allocation by the Department, and if concerning the ongoing features or operation of the Development, shall be reflected in the LURA. All such representations are enforceable by the Department and the tenants of the Development, including enforcement by administrative penalties for failure to perform, in accordance with the LURA.

(c) **Evaluation Process.** Applications will be reviewed according to the process outlined in this subsection.

(1) **Threshold Criteria Review.** Applications will be initially evaluated against the Threshold Criteria. Applications not meeting Threshold Criteria will be terminated, unless the Department determines that the failure to meet the Threshold Criteria is the result of Administrative Deficiencies, in which event the Applicant shall be given an opportunity to correct such deficiencies. Applications not meeting Threshold Criteria will be rejected and the Applicant will be provided a written notice to the effect that the Threshold Criteria have not been met. The Department shall not be responsible for the Applicant's failure to meet the Threshold Criteria,

and any failure of the Department's staff to notify the Applicant of such inability to satisfy the Threshold Criteria shall not confer upon the Applicant any rights to which it would not otherwise be entitled.

(2) Selection Criteria Review. For an Application to be considered under the Selection Criteria, the Applicant must demonstrate that the Development meets all of the Threshold Criteria requirements. Applications that satisfy the Threshold Criteria will then be scored and ranked according to the Selection Criteria listed in subsection (f) of this section. Where a particular scoring criterion involves multiple points, the Department will award points to the degree proportionate, in its determination, to which a proposed Development complied with that criterion. Applications not scored by the Department's staff shall be deemed to have the points allocated through self-scoring by the Applicants until actually scored. This shall apply only for purposes of releasing the Submission Log in ranking order by score.

(3) Subsequent Evaluation of Prioritized Applications. After the Application is scored under the Selection Criteria, the Department will assign, as herein described, Developments for review for financial feasibility by the Department's credit underwriting division. Assignments for financial feasibility will be determined by selecting the Applications with the highest scores in each Set-Aside statewide and then in each Uniform State Service Region. Based on Application rankings, the Department shall continue to underwrite Applications until the Department has processed enough Applications satisfying the Department's underwriting criteria to enable the allocation of all available housing tax credits according to regional allocation goals and Set-Aside categories. To enable the Board to establish a Waiting List, the Department shall underwrite as many additional Applications as the Committee and Board consider necessary to ensure that all available housing tax credits are allocated within the period required by law.

(4) Underwriting Evaluation and Criteria. Underwriting of a Development will include a determination by the Department, pursuant to the Code, §42, that the amount of credits recommended for commitment to a Development is necessary for the financial feasibility of the Development and its long-term viability as a qualified low income housing property. In making this determination, the Department will use the Underwriting Rules and Guidelines, 10 TAC §1.32 of this title.

(A) The Department may have an outside third party perform the underwriting evaluation to the extent it determines appropriate. The expense of any third party underwriting evaluation shall be paid by the Applicant prior to the commencement of the aforementioned evaluation.

(B) The Department will reduce the Applicant's estimate of Developer's and/or Contractor fees in instances where these exceed the fee limits determined by the Department. In the instance where the Contractor is an Affiliate of the Development Owner and both parties are claiming fees, Contractor's overhead, profit, and general requirements, the Department shall be authorized to reduce the total fees estimated to a level that it determines to be reasonable under the circumstances. Further, the Department shall deny or reduce the amount of Housing Tax Credits allocated with respect to any portion of costs which it deems excessive or unreasonable. The Department also may require bids or third party estimates in support of the costs proposed by any Applicant.

(5) Compliance Evaluation. After the Department has determined which Developments will be reviewed for financial feasibility, those same Developments will be reviewed for evaluation of the compliance status of all members of the ownership structure by the Department's compliance division, in accordance with §49.19 of this title.

(6) Site Evaluation. Site conditions shall be evaluated through a physical site inspection by the Department. Such inspection will evaluate the site based upon the criteria set forth in the Site Evaluation form provided in the Application and the inspector shall provide a written report of such site evaluation. The evaluations shall be based on the condition of the surrounding neighborhood, including appropriate environmental and aesthetic conditions and proximity to retail, medical, recreational, and educational facilities, and employment centers. The site's appearance and visibility to prospective tenants and its accessibility via the existing transportation infrastructure and public transportation systems shall be considered. "Unacceptable" sites would include, without limitation of any sort, those containing a non-mitigable environmental factor that might adversely affect the health and safety of the residents. For Developments applying under the TX-USDA-RHS Set-Aside, the Department will rely on the physical site inspection performed by TX-USDA-RHS.

(d) Required Pre-Certification and Acknowledgement Procedures. No later than 7 days prior to the close of the Application Acceptance Period, an Applicant must submit the documents required in this subsection to obtain the required pre-certification and acknowledgement.

(1) Experience Certificate. Upon receipt of the evidence required under this paragraph, a certification from the Department will be provided to the Applicant for inclusion in their Application(s). Evidence must show that the Development Owner's General Partner, partner (or if Applicant is to be a limited liability company, the managing member), Developer or their Principals have a record of successfully constructing or developing residential units or comparable commercial property (i.e. dormitory and hotel/motel) in the capacity of owner, General Partner, Developer or managing member. If a Public Housing Authority organized an entity for the

purpose of developing residential units or comparable commercial property, the Public Housing Authority shall be considered a principal for the purpose of this requirement. If rehabilitation experience is being claimed to qualify for an Application involving new construction, then the rehabilitation must have been substantial and involved at least \$6,000 of direct hard cost per unit.

(A) The term "successfully" is defined as acting in a capacity as the owner, General Partner, managing member, or Developer of:

(i) at least 100 residential units or comparable commercial property; or

(ii) at least 36 residential units or comparable commercial property if the Development applying for credits is a rural Development.

(B) One of the following documents must be submitted: American Institute of Architects (AIA) Document A111 - Standard Form of Agreement Between Owner & Contractor, AIA Document G704 - Certificate of Substantial Completion, IRS Form 8609, HUD Form 9822, development agreements, partnership agreements, or other appropriate documentation verifying that the Development Owner's General Partner, partner (or if Applicant is to be a limited liability company, the managing member), Developer or their Principals have the required experience. If submitting the IRS Form 8609, only one form per Development is required. The evidence must clearly indicate:

(i) that the Development has been completed (i.e. Development Agreements, Partnership Agreements, etc. must be accompanied by certificates of completion.);

(ii) that the names on the forms and agreements tie back to the Development Owner's General Partner, partner (or if Applicant is to be a limited liability company, the managing member), Developer or their Principals as listed in the Application; and

(iii) the number of units completed or substantially completed.

(2) Financial Statement and Authorization to Release Credit Information. Upon receipt of the evidence required under this paragraph, an acknowledgement from the Department will be provided to the Applicant for inclusion in their Application(s). A "Financial Statement and Authorization to Release Credit Information" must be completed and signed for any Person with an ownership interest in the General Partner (or Managing Member), interest in the Applicant, or the Developer, or anticipated to provide guarantees to secure necessary financing.. The statement must not be older than 90 days from the date of submission. If submitting partnership or corporate financials in addition to the statements of individuals , the certified financial statements, or audited financial statements if available, should be for the most recent fiscal year ended 90 days prior to the day the documentation is submitted. This document is required for an entity even if the entity is wholly-owned by a Person who has submitted this document as an individual. Entities that have not yet been formed and entities that have been formed recently but have no assets, liabilities or net worth are not required to submit this documentation, but must submit a statement that this is the case.

(e) **Threshold Criteria.** The following Threshold Criteria listed in paragraphs (1) through (14) of this subsection are mandatory requirements at the time of Application submission:

(1) Completion and submission of the Application provided in the Application Submission Procedures Manual, which includes the entire Uniform Application and any other supplemental forms which may be required by the Department.

(2) Completion and submission of the Site Packet as provided in the Application Submission Procedures Manual.

(3) Set-Aside Eligibility. Documentation must be provided that confirms eligibility for all Set-Asides under which the Application is seeking funding, other than the General Set-Aside, as required in the Application Submission Procedures Manual.

(4) Certifications and Design Items. The "Certification Form" provided in the Application Submission Procedures Manual and supporting documents. This exhibit will provide:

(A) A description of the type of amenities proposed for the Development. The amenities selected must be made available for the benefit of all tenants. If fees in addition to rent are charged for amenities reserved for an individual tenant's use (i.e. covered parking, storage, etc.), then the amenity may not be included among those provided to complete this exhibit. Developments with more than 36 units must provide at least four of the amenities provided in clauses (i) through (viii) of this subparagraph. Developments with 36 Units or less and/or Developments receiving funding from TX-USDA-RHS must provide at least two of the amenities provided in clauses (i) through (viii) of this subparagraph. Any future changes in these amenities, or substitution of these amenities, may result in a decrease in awarded credits if the substitution or change includes a decrease in cost or in a cancellation of a Commitment Notice or Carryover Allocation if the Threshold Criteria are no longer met.

(i) Full perimeter fencing with controlled gate access;

(ii) designated playground and equipment;

(iii) community laundry room and/or laundry hook-ups in Units (no hook-up fees of any kind may be charged to a tenant for use of the hook-ups);
(iv) furnished community room;
(v) recreation facilities;
(vi) public telephone(s) available to tenants 24 hours a day;
(vii) on-site day care, senior center, or community meals room; or
(viii) computer facilities including internet access.

(B) A certification that the Development will adhere to the Texas Property Code relating to security devices and other applicable requirements for residential tenancies, and will adhere at a minimum to the International Building Code as it relates to access, lighting and life safety issues.

(C) A certification that the Applicant is in compliance with state and federal laws, including but not limited to, fair housing laws, including Chapter 301, Property Code, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Section 3601 et seq.), and the Fair Housing Amendments Act of 1988 (42 U.S.C. Section 3601 et seq.); the Civil Rights Act of 1964 (42 U.S.C. Section 2000a et seq.); the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.); and the Rehabilitation Act of 1973 (29 U.S.C. Section 701 et seq.)

(D) A certification that the Applicant will attempt to ensure that at least 30% of the construction and management businesses with which the Applicant contracts in connection with the Development are Minority Owned Businesses, and that the Applicant will submit at least once in each 90-day period following the date of the Commitment Notice a report, in a format prescribed by the Department and provided at the time a Commitment Notice is received, on the percentage of businesses with which the Applicant has contracted that qualify as Minority Owned Businesses.

(E) A certification that the Development will comply with the accessibility standards that are required under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), and specified under 24 C.F.R. Part 8, Subpart C. This includes that for all Developments, a minimum of five percent of the total dwelling Units or at least one Unit, whichever is greater, shall be made accessible for individuals with mobility impairments. A Unit that is on an accessible route and is adaptable and otherwise compliant with sections 3-8 of the Uniform Federal Accessibility Standards (UFAS), shall be deemed to meet this requirement. An additional two percent of the total dwelling Units, or at least one Unit, whichever is greater, shall be accessible for individuals with hearing or vision impairments. Additionally, in Developments where all Units are two-stories and are normally exempt from Fair Housing accessibility requirements, a minimum of 20% of each Unit type must provide an accessible entry level in compliance with the Fair Housing Guidelines, and include a minimum of one bedroom and one bathroom or powder room at the entry level. At the construction loan closing, a certification from an accredited architect will be required stating that the Development was designed in conformance with these standards and that all features have been or will be installed to make the Unit accessible for individuals with mobility impairments or individuals with hearing or vision impairments. A similar certification will also be required after the Development is completed. This requirement applies to all Developments including new construction and rehabilitation.

(F) A certification that the Development will adhere to the 2000 International Energy Conservation Code (IECC) and the Department's Minimum Standard Energy Saving Devices in the construction of each tax credit Unit, historic preservation codes notwithstanding. Minimum Standard Energy Saving Measures are identified in clauses (i) through (v) of this subparagraph. All Units must be air-conditioned. The measures must be certified by the Development architect as being included in the design of each tax credit Unit prior to the closing of the construction loan and in actual construction upon Cost Certification.

(i) Insulation values must meet the 2000 International Energy Conservation Code (IECC) for the region in which the development is located. Rehabilitation Developments must also include soffit and ridge vents and storm windows;

(ii) If newly installed, Energy Star or equivalently rated air handler and condenser; or heating and cooling systems with minimum SEER 12 A/C and AFUE 90% furnace if using gas; or in dry climates an evaporative cooling system may replace the Energy Star cooling system;

(iii) All appliances installed to be Energy Star rated and water heaters to have an energy factor greater than .93 for electric or greater than .62 for gas;

(iv) Maximum 2.5 gallon/minute showerheads and maximum 1.5 gallon/minute faucet aerators;
and

(v) Installation of ceiling fans in living room and each sleeping room.

(G) A certification that the Development will be built by a General Contractor that satisfies the requirements of the General Appropriation Act, Article VII, Rider 11(c) applicable to the Department which requires that the General Contractor hired by the Development Owner or the Applicant, if the Applicant serves as General Contractor, must demonstrate a history of constructing similar types of housing without the use of federal tax credits.

(H) All of the architectural drawings identified in clauses (i) through (v) of this subparagraph. While full size design or construction documents are not required, the drawings must have an accurate and legible scale and show the dimensions. All Developments involving new construction, or conversion of existing buildings not configured in the Unit pattern proposed in the Application, must provide all of the items identified in clauses (i) through (v) of this subparagraph. For Developments involving rehabilitation for which the Unit configurations are not being altered, only the items identified in clauses (i), (ii) and (iii) of this subparagraph are required:

(i) a site survey or drawing of the entire property that is under the control the prospective Development Owner, which must be a professionally generated (e.g. computer-generated or architectural draft; not a sketch) plat drawn to scale from a metes and bounds description;

(ii) a site plan which:

(I) is consistent with the number of Units and Unit mix specified in the "Rent Schedule" provided in the Application;

(II) identifies all residential, common buildings and amenities; and

(III) clearly delineates the flood plain boundary lines and other easements shown in the site survey;

(iii) floor plans for each type of residential building and each type of common area building;

(iv) floor plans and elevations for each type of residential building and each common area building clearly depicting the height of each floor and a percentage estimate of the exterior composition;

(v) Unit floor plans for each type of Unit showing special accessibility and energy features. The use of each room must be labeled. The net rentable areas these Unit floor plans represent should be consistent with those shown in the "Rent Schedule" provided in the application; and

(I) Rehabilitation Developments must submit photographs of the existing signage, typical building elevations and interiors, existing Development amenities, and site work. These photos should clearly document the typical areas and building components which exemplify the need for rehabilitation.

(5) Evidence of the Development's development costs and corresponding credit request and syndication information as described in subparagraphs (A) through (G) of this paragraph.

(A) A written narrative describing the financing plan for the Development, including any non-traditional financing arrangements; the use of funds with respect to the Development; the funding sources for the Development including construction, permanent and bridge loans, rents, operating subsidies, and replacement reserves; and the commitment status of the funding sources for the Development. This information must be consistent with the information provided throughout the Application.

(B) All Developments must submit the "Development Cost Schedule" provided in the Application Submission Procedures Manual. This exhibit must have been prepared and executed not more than 6 months prior to the close of the Application Acceptance Period.

(C) Provide a letter of commitment from a syndicator that, at a minimum, provides an estimate of the amount of equity dollars expected to be raised for the Development in conjunction with the amount of housing tax credits requested for allocation to the Applicant, including pay-in schedules, syndicator consulting fees and other syndication costs. No syndication costs should be included in the Eligible Basis.

(D) For Developments located in a Qualified Census Tract (QCT) as determined by the Secretary of HUD and qualifying for a 30% increase in Eligible Basis, pursuant to the Code, §42(d)(5)(C), Applicants must submit a copy of the census map clearly showing that the proposed Development is located within a QCT. Census tract numbers must be clearly marked on the map, and must be identical to the QCT number stated in the Department's Reference Manual.

(E) Rehabilitation Developments must submit the "Proposed Work Write Up for Rehabilitation Developments" provided in the Application Submission Procedures Manual. This form must be prepared and certified by a Third Party registered or licensed architect, engineer or construction inspector.

(F) If offsite costs are included in the budget as a line item, or embedded in the site acquisition contract, or referenced in the utility provider letters, then the supplemental form "Off Site Cost Breakdown" must be provided.

(G) If projected site work costs include unusual or extraordinary items or exceed \$7,500 per Unit, then the Applicant must provide a detailed cost breakdown prepared by a Third Party engineer or architect, and a letter from a certified public accountant allocating which portions of those site costs should be included in Eligible Basis and which ones may be ineligible.

(6) Evidence of readiness to proceed as evidenced by at least one of the items under each of subparagraphs (A) through (E) of this paragraph:

(A) Evidence of site control in the name of Development Owner. If the evidence is not in the name of the Development Owner, then the documentation should reflect an expressed ability to transfer the rights to the Development Owner. All individual Persons who are members of the ownership entity of the seller of the

proposed site must be identified. One of the following items described in clauses (i) through (iii) of this subparagraph must be provided:

(i) a recorded warranty deed; or

(ii) a contract for sale or lease (the minimum term of the lease must be at least 45 years) which is valid for the entire period the Development is under consideration for tax credits or at least 90 days, whichever is greater; or

(iii) an exclusive option to purchase which is valid for the entire period the Development is under consideration for tax credits or at least 90 days, whichever is greater.

(B) Evidence from the appropriate local municipal authority that satisfies one of clauses (i) through (iii) of this subparagraph. Documentation must have been prepared and executed not more than 6 months prior to the close of the Application Acceptance Period.

(i) a letter from the chief executive officer of the political subdivision or another local official with appropriate jurisdiction stating that the Development is located within the boundaries of a political subdivision which does not have a zoning ordinance;

(ii) a letter from the chief executive officer of the political subdivision or another local official with appropriate jurisdiction stating that:

(I) the Development is permitted under the provisions of the zoning ordinance that apply to the location of the Development or that there is not a zoning requirement; or

(II) the Applicant is in the process of seeking the appropriate zoning and has signed and provided to the political subdivision a release agreeing to hold the political subdivision and all other parties harmless in the event that the appropriate zoning is denied, and a time schedule for completion of appropriate zoning. The Applicant must also provide at the time of Application a copy of the application for appropriate zoning filed with the local entity responsible for zoning approval and proof of delivery of that application in the form of a signed certified mail receipt, signed overnight mail receipt, or confirmation letter from said official. No later than April 1, 2003 (or for Tax Exempt Bond Developments no later than 14 days before the Board meeting where the credits will be committed), the Applicant must submit to the Department written evidence that the local entity responsible for initial approval of zoning has approved the appropriate zoning and that they will recommend approval of appropriate zoning to the entity responsible for final approval of zoning decisions (city council or county commission). If this evidence is not provided on or before April 1, 2003, the Application will be terminated. Final approval of appropriate zoning must be achieved and documentation of acceptable zoning for the Development, as proposed in the Application, must be provided to the Department at the time the Commitment Fee is paid. If this evidence is not provided with the Commitment Fee, any commitment of credits will be rescinded.

(iii) In the case of a rehabilitation Development, if the property is currently a non-conforming use as presently zoned, a letter which discusses the items in subclauses (I) through (IV) of this clause:

(I) a detailed narrative of the nature of non-conformance;

(II) the applicable destruction threshold;

(III) owner's rights to reconstruct in the event of damage; and

(IV) penalties for noncompliance.

(C) This Exhibit is required for New Construction only. Evidence of the availability of all necessary utilities/services to the development site. Necessary utilities include natural gas (if applicable), electric, trash, water, and sewer. Such evidence must be a letter or a monthly utility bill from the appropriate municipal/local service provider. If utilities are not already accessible, then the letter must clearly state: an estimated time frame for provision of the utilities, an estimate of the infrastructure cost, and an estimate of any portion of that cost that will be borne by the Development Owner. Letters must be from an authorized individual representing the organization which actually provides the services. Such documentation should clearly indicate the Development property. If utilities are not already accessible (undeveloped areas), then the letter should not be older than three months from the first day of the Application Acceptance Period.

(D) Evidence of interim and permanent financing sufficient to fund the proposed Total Housing Development Cost less any other funds requested from the Department and any other sources documented in the Application. Such evidence must be consistent with the sources and uses of funds represented in the Application and shall be provided in one or more of the following forms described in clauses (i) through (iv) of this subparagraph:

(i) bona fide financing in place as evidenced by a valid and binding loan agreement and a deed(s) of trust in the name of the Development Owner which identifies the mortgagor as the Applicant or entities which comprise the General Partner and/or expressly allows the transfer to the Development Owner; or,

(ii) bona fide commitment or term sheet for the interim and permanent loans issued by a lending institution or mortgage company that is actively and regularly engaged in the business of lending money which is addressed to the Development Owner, or entities which comprise the Applicant and which has been executed by

the lender (the term of the loan must be for a minimum of 15 years with at least a 30 year amortization). The commitment must state an expiration date and all the terms and conditions applicable to the financing including the mechanism for determining the interest rate, if applicable, and the anticipated interest rate. Such a commitment may be conditional upon the completion of specified due diligence by the lender and upon the award of tax credits; or,

(iii) any Federal, State or local gap financing, whether of soft or hard debt, must be identified at the time of Application. At a minimum, evidence from the lending agency that an application for funding has been made and a term sheet which clearly describes the amount and terms of the funding, and the date by which the funding determination will be made and any commitment issued, must be submitted. While evidence of application for funding from another TDHCA program is not required except as indicated on the Uniform Application, the Applicant must clearly indicate that such an application has been filed as required by the Application Submission Procedures Manual. If the necessary financing has not been committed by the applicable lending agency, the Commitment Notice, Housing Credit Allocation or Determination Notice, as the case may be, will be conditioned upon Applicant obtaining a commitment for the required financing by a date certain, but no later than the date the Carryover Allocation Document is due to the Department; or

(iv) if the Development will be financed through Development Owner contributions, provide a letter from an Third Party CPA verifying the capacity of the Applicant to provide the proposed financing with funds that are not otherwise committed together with a letter from the Applicant's bank or banks confirming that sufficient funds are available to the Applicant. Documentation must have been prepared and executed not more than 6 months prior to the close of the Application Acceptance Period.

(E) A copy of the full legal description and either of the documents described in clauses (i) and (ii) of this subparagraph, and satisfying the requirements of clause (iii) of this subparagraph, if applicable:

(i) a copy of the current title policy which shows that the ownership (or leasehold) of the land/Development is vested in the exact name of the Applicant, or entities which comprise the Applicant; or

(ii) a copy of a current title commitment with the proposed insured matching exactly the name of the Applicant or entities which comprise the Applicant and the title of the land/Development vested in the name of the exact name of the seller or lessor as indicated on the sales contract or lease.

(iii) if the title policy or title commitment is more than six months old as of the day the Application Acceptance Period closes, then a letter from the title company indicating that nothing further has transpired on the policy or commitment.

(7) Evidence of all of the notifications described in subparagraphs (A) through (D) of this paragraph. Such notices must be prepared in accordance with "Public Notifications" provided in the Application Submission Procedures Manual.

(A) A copy of the public notice published in the most widely circulated newspaper in the area in which the proposed Development will be located. The newspaper must be intended for the general population and may not be a business newspaper or other specialized publication. Such notice must run at least twice within a thirty day period. Such notice must be published prior to the submission of the Application to the Department and can not be older than three months from the first day of the Application Acceptance Period. In communities located within a Metropolitan Statistical Area the notice should be published in the newspapers of both the Development community and the Metropolitan Statistical Area. Developments that involve rehabilitation and which are already serving low income residents are not required to provide this exhibit.

(B) Evidence of notification of the local chief executive officer(s) (i.e., mayor and county judge), state senator, and state representative of the locality of the Development. Evidence of such notification shall include a letter which at a minimum contains a copy of the public notice sent to the official and proof of delivery in the form of a signed certified mail receipt, signed overnight mail receipt, or confirmation letter from said official. Proof of notification should not be older than three months from the first day of the Application Acceptance Period.

(C) If any of the Units in the Development are occupied at the time of Application, then the Applicant must post a copy of the public notice in a prominent location at the Development throughout the period of time the Application is under review by the Department. A picture of this posted notice must be provided with this exhibit. When the Department's public hearing schedule for comment on submitted Applications becomes available, a copy of the schedule must also be posted until such hearings are completed. Compliance with these requirements shall be confirmed during the Department's site inspection.

(D) Public Housing Waiting List. Evidence that the Development Owner has committed in writing to the local public housing authority(ies) (PHA) the availability of Units and that the Development Owner agrees to consider households on the PHA's waiting list as potential tenants and that the Property is available to Section 8 and other tenant-based rental assistance certificate or voucher holders. Evidence of this commitment must include a copy of the Development Owner's letter to the PHA(s) and proof of delivery in the form of a certified mail receipt, overnight mail receipt, or confirmation letter from said PHA(s). Proof of notification should not be

older than six months from the close of the Application Acceptance Period. If no PHA is within the locality of the Development, the Development Owner must utilize the nearest authority or office responsible for administering Section 8 programs.

(8) Evidence of the Development's proposed ownership structure and the Applicant's previous experience as described in subparagraphs (A) through (E) of this paragraph.

(A) Charts which clearly illustrates the complete organizational structure of the final proposed Development Owner and of any Developer, providing the names and ownership percentages of all Persons having an ownership interest in the Development Owner or the Developer, as applicable, whether directly or through one or more subsidiaries.

(B) Each entity shown on an organizational chart as described in subparagraph (A) of this paragraph, shall provide the following documentation, as applicable:

(i) For entities that are not yet formed but are to be formed either in or outside of the state of Texas:

(I) a certificate of reservation of the entity name from the Texas Secretary of State and from the state in which the entity is to be formed if different from Texas; and

(II) an executed letter of intent to organize or a copy of the draft organizational documents for the entity to be formed including Articles of Incorporation, Articles of Organization or Partnership Agreement.

(ii) For existing entities whether formed in or outside of the state of Texas:

(I) A Certificate of Account Status from the Texas Comptroller of Public Accounts or, if such a Certificate is not available because the entity is newly formed, a statement to such effect; and

(II) for entities formed in a state other than Texas a certificate of authority to do business in Texas or an application for a certificate of authority,

(III) Copies of the entity's governing documents, including, but not limited to, its Articles of Incorporation, Articles of Organization, Certificate of Limited Partnership, Bylaws, Regulations and/or Partnership Agreement.

(iii) The Applicant must provide evidence that the signer(s) of the Application have the authority to sign on behalf of the Applicant in the form of a corporate resolution or by-laws which indicate same from the sub-entity in Control of the Applicant, and that those persons constitute all persons required to sign or submit such documents. A cover sheet must be placed before the copy of the organizational documents, identifying the relevant document(s) where the evidence of authority to sign is to be found and specifying exactly where the applicable information exists within all relevant documents by page number or by section and subsection if the pages are not numbered.

(C) Each entity shown on an organizational chart as described in subparagraph (A) of this paragraph, shall provide a copy of the completed and executed Previous Participation and Background Certification Form. If the Developer of the Development is receiving more than 10% of the Developer fee, he/she will also be required to submit documents for this exhibit. The 2003 versions of these forms, as required in the Uniform Application, must be submitted. Units of local government are also required to submit this document. The form must include a list of all developments that are, or were, previously under ownership or control of the Applicant and their Affiliates. All participation in any TDHCA funded or monitored activity, including non-housing activities, must be disclosed.

(D) If the Development Owner or the Developer or any of their Affiliates shown on the organizational chart as described in subparagraph (A) of this paragraph (other than the Development Owner's limited partner) have, or have had, ownership or control of affordable housing, being housing that receives any form of financing and/or assistance from any Governmental Entity for the purpose of enhancing affordability to persons of low or moderate income, outside the state of Texas, then evidence that such Persons have sent the National Previous Participation and Background Certification Form, to the appropriate Housing Credit Agency for each state in which they have developed or operated affordable housing. This form is only necessary when the Developments involved are outside of the state of Texas. An original form is not required. Evidence of such notification shall be a copy of the form sent to the agency and proof of delivery in the form of a certified mail receipt, overnight mail receipt, or confirmation letter from said agency.

(E) Evidence that the Developer and the Development Owner's General Partner, partner (or if Applicant is to be a limited liability company, the managing member) or their Principals have a record of successfully constructing or developing residential units or comparable commercial property (i.e. dormitory and hotel/motel) in the capacity of Developer, Development Owner, General Partner or managing member. Evidence must be a certification from the Department that the Person with the experience satisfies this exhibit, as further described under §49.9(d) of this title. Applicants must request this certification at least seven days prior to the close of the Application Acceptance Period. Applicants should ensure that the individual whose name is on the certification appears in the organizational chart provided in subparagraph (A) of this paragraph.

(9) Evidence of the Development's projected income and operating expenses as described in subparagraphs (A) through (D) of this paragraph:

(A) All Developments must provide a 30-year proforma estimate of operating expenses and supporting documentation used to generate projections (operating statements from comparable properties).

(B) If rental assistance, an operating subsidy, an annuity, or an interest rate reduction payment is proposed to exist or continue for the Development, any related contract or other agreement securing those funds must be provided, which at a minimum identifies the source and annual amount of the funds, the number of Units receiving the funds, and the term and expiration date of the contract or other agreement.

(C) Applicant must provide documentation from the source of the "Utility Allowance" estimate used in completing the Rent Schedule provided in the Application. This exhibit must clearly indicate which utility costs are included in the estimate. If there is more than one entity (Section 8 administrator, public housing authority) responsible for setting the utility allowance(s) in the area of the Development location, then the Utility Allowance selected must be the one which most closely reflects the actual utility costs in that Development area. In this case, documentation from the local utility provider supporting the selection must be provided.

(D) Occupied Developments undergoing rehabilitation must also submit the items described in clauses (i) through (iv) of this subparagraph.

(i) The items in subclauses (I) and (ii) are required unless the current property owner is unwilling to provide the required documentation. In that case, submit a signed statement as to their unwillingness to do so.

(I) historical monthly operating statements of the subject Development for 12 consecutive months ending not more than 45 days prior to the first day of the Application Acceptance Period. In lieu of the monthly operating statements, two annual operating statement summaries may be provided. If 12 months of operating statements or two annual operating summaries cannot be obtained, then the monthly operating statements since the date of acquisition of the Development and any other supporting documentation used to generate projections may be provided; and

(II) a rent roll not more than 6 months old as of the day the Application Acceptance Period closes, that discloses the terms and rate of the lease, rental rates offered at the date of the rent roll, Unit mix, tenant names or vacancy, and dates of first occupancy and expiration of lease.

(ii) a written explanation of the process used to notify and consult with the tenants in preparing the Application;

(iii) a relocation plan outlining relocation requirements and a budget with an identified funding source; and

(iv) if applicable, evidence that the relocation plan has been submitted to the appropriate legal agency.

(10) Applications involving Nonprofit General Partners and Qualified Nonprofit Developments.

(A) All Applicants involving a nonprofit General Partner (or Managing Member), regardless of the Set-Aside applied under, must submit all of the documents described in clauses (i) through (iii) of this subparagraph which confirm that the Applicant is a Qualified Nonprofit Organization pursuant to Code, §42(h)(5)(C):

(i) an IRS determination letter which states that the Qualified Nonprofit Organization is a 501(c)(3) or (4) entity;

(ii) a copy of the articles of incorporation of the nonprofit organization which specifically states that the fostering of affordable housing is one of the entity's exempt purposes;

(iii) "Nonprofit Participation Exhibit"; and

(B) Additionally, all Applicants applying under the Nonprofit Set-Aside, established under §49.7(b)(1) of this title, must also provide the following information with respect to the Qualified Nonprofit Organization as described in clauses (i) through (v) of this subparagraph.

(i) evidence that one of the exempt purposes of the nonprofit organization is to provide low income housing;

(ii) evidence that the nonprofit organization prohibits a member of its board of directors, other than a chief staff member serving concurrently as a member of the board, from receiving material compensation for service on the board;

(iii) a Third Party legal opinion stating:

(I) that the nonprofit organization is not affiliated with or controlled by a for-profit organization and the basis for that opinion, and

(II) that the nonprofit organization is eligible, as further described, for a Housing Credit Allocation from the Nonprofit Set-Aside and the basis for that opinion. Eligibility is contingent upon the nonprofit organization controlling a majority of the Development, or if the organization's Application is filed on

behalf of a limited partnership, or limited liability company, being the managing General Partner (or Managing Member); and otherwise meet the requirements of the Code, §42(h)(5);

(iv) a copy of the nonprofit organization's most recent audited financial statement;

(v) evidence, in the form of a certification, that a majority of the members of the nonprofit organization's board of directors principally reside:

(I) in this state, if the Development is located in a rural area; or

(II) not more than 90 miles from the Development, if the Development is not located in a rural area.

(11) Applicants applying for acquisition credits or affiliated with the seller must provide all of the documentation described in subparagraphs (A) through (C) of this paragraph. Applicants applying for acquisition credits must also provide the items described in subparagraph (D) of this paragraph and as provided in the Application Submission Procedures Manual.

(A) an appraisal, not more than 6 months old as of the day the Application Acceptance Period closes, which complies with the Uniform Standards of Professional Appraisal Practice and the Department's Market Analysis and Appraisal Policy. For Developments qualifying in the TX-USDA-RHS Set-Aside, the appraisal may be more than 6 months old, but not more than 12 months old as of the day the Application Acceptance Period closes. This appraisal of the property must separately state the as-is, pre-acquisition or transfer value of the land and the improvements where applicable;

(B) a valuation report from the county tax appraisal district;

(C) clear identification of the selling Persons or entities, and details of any relationship between the seller and the Applicant or any Affiliation with the Development Team, Qualified Market Analyst or any other professional or other consultant performing services with respect to the Development. If any such relationship exists, complete disclosure and documentation of the related party's original acquisition and holding and improvement costs since acquisition, and any and all exit taxes, to justify the proposed sales price must also be provided; and

(D) "Acquisition of Existing Buildings Form."

(12) Evidence of an "Acknowledgement of Receipt of Financial Statement and Authorization to Release Credit Information" must be provided for any person with an ownership interest in the General Partner (or Managing Member), interest in the Applicant, or the Developer, or anticipated to provide guarantees to secure necessary financing, as required under §49.9(d) of this title.

(13) Supplemental Threshold Reports. Documents under subparagraph (A) and (B) of this paragraph must be submitted as further clarified in subparagraph (C) and (D) of this paragraph and in accordance with the Market Analysis Rules and Guidelines and Environmental Site Assessment Rules and Guidelines, 10 TAC §§1.33 and 1.35 of this title.

(A) A Phase I Environmental Site Assessment (ESA) on the subject Property, dated not more than 12 months prior to the first day of the Application Acceptance Period. In the event that a Phase I Environmental Site Assessment on the Development is more than 12 months old prior to the first day of the Application Acceptance Period, the Development Owner must supply the Department with an updated letter from the Person or organization which prepared the initial assessment; however the Department will not accept any Phase I Environmental Site Assessment which is more than 24 months old as of the day the Application Acceptance Period closes. The ESA must be prepared in accordance with the Department Environmental Site Assessment Rules and Guidelines. Developments whose funds have been obligated by TX-USDA-RHS will not be required to supply this information; however, the Development Owners of such Developments are hereby notified that it is their responsibility to ensure that the Development is maintained in compliance with all state and federal environmental hazard requirements.

(B) A comprehensive Market Analysis prepared at the Development Owner's expense by a disinterested Qualified Market Analyst in accordance with the Market Analysis Rules and Guidelines. In the event that a Market Analysis on the Development is older than 6 months as of the day the Application Acceptance Period closes, the Development Owner must supply the Department with an updated Market Analysis from the Person or organization which prepared the initial report; however the Department will not accept any Market Analysis which is more than 12 months old as of the day the Application Acceptance Period closes. The Market Analysis should be prepared for and addressed to the Department. For Applications in the TX-USDA-RHS Set-Aside, the appraisal, required under paragraph (11)(A) of this subsection, will satisfy the requirement for a Market Analysis; no additional Market Analysis is required; however the Department may request additional information as needed.

(i) The Department may determine from time to time that information not required in the Department Market Analysis and Appraisal Rules and Guidelines will be relevant to the Department's evaluation of the need for the Development and the allocation of the requested Housing Credit Allocation Amount. The Department may request additional information from the Qualified Market Analyst to meet this need.

(ii) All Applicants shall acknowledge by virtue of filing an Application that the Department shall not be bound by any such opinion or the Market Analysis itself, and may substitute its own analysis and underwriting conclusions for those submitted by the Qualified Market Analyst.

(C) Inserted at the front of each of these reports must be a transmittal letter from the individual preparing the report that states that the Department is granted full authority to rely on the findings and conclusions of the report.

(D) The requirements for each of the reports identified in subparagraphs (A) and (B) of this paragraph can be satisfied in either of the methods identified in clauses (i) or (ii) of this subparagraph.

(i) Upon Application submission, the documentation for each of these exhibits may be submitted in its entirety as described in subparagraphs (A) and (B) of this paragraph; or

(ii) Upon Application submission, the Applicant may provide evidence in the form of an executed engagement letter with the party performing each of the individual reports that the required exhibit has been commissioned to be performed and that the delivery date will be no later than March 31, 2003. Subsequently, the entire exhibit must be submitted on or before 5:00 p.m. CST, March 31, 2003. If the entire exhibit is not received by that time, the Application will be terminated for a Material Deficiency and will be removed from consideration.

(14) Self-Scoring. Applicant's self-score must be completed on the "Application Self-Scoring Form."

(f) **Selection Criteria.** All Applications will be evaluated and ranking points will be assigned according to the Selection Criteria listed in paragraphs (1) through (12) of this subsection.

(1) **Development Location Characteristics.** Evidence, not more than 6 months old from the date of the close of the Application Acceptance Period, that the subject Property is located within one of the geographical areas described in subparagraphs (A) through (D) of this paragraph. Areas qualifying under any one of the subparagraphs (A) through (D) of this paragraph will receive 5 points. A Development may only receive points under one of the subparagraphs (A) through (D) of this paragraph. A Development may receive points pursuant to subparagraph (E) of this paragraph in addition to any points awarded in subparagraphs (A) through (D) of this paragraph.

(A) A geographical area which is:

(i) a Targeted Texas County (TTC) or Economically Distressed Area; or

(ii) a Colonia, or

(iii) a Difficult Development Area (DDA) as specifically designated by the Secretary of HUD.

(B) a designated state or federal empowerment/enterprise zone, urban enterprise community, or urban enhanced enterprise community. Such Developments must submit a letter and a map from a city/county official verifying that the proposed Development is located within such a designated zone. Letter should be no older than 6 months from the close of the Application Acceptance Period.

(C) a city-sponsored Tax Increment Financing Zone (TIF), Public Improvement District (PIDs), or other area or zone where a city or county has, through a local government initiative, specifically encouraged or channeled growth, neighborhood preservation or redevelopment. Such Developments must submit all of the following documentation: a letter from a city/county official verifying that the proposed Development is located within the city sponsored zone or district; a map from the city/county official which clearly delineates the boundaries of the district; and a certified copy of the appropriate resolution or documentation from the mayor, local city council, county judge, or county commissioners court which documents that the designated area was:

(i) created by the local city council/county commission, and

(ii) targets a specific geographic area which was not created solely for the benefit of the Applicant.

(D) a non-impacted Census Block pursuant to the Young vs. Martinez judgment. Such Developments must submit evidence in the form of a letter from HUD that the Development is located in such an area.

(E) a Development which is located in a city or county with a relatively low ratio of awarded tax credits (in dollars) to its population. If the Development is located in an incorporated city, the city ratio will be used and if the Development is located outside of an incorporated city, then the county ratio will be used. Such ratios shall be calculated by the Department based on its inventory of tax credit developments and the 2000 Census Data. In the event that census data does not have a figure for a specific place, the Department will rely on the Texas State Data Center's place population estimates, or as a final source the Department will rely on the local municipality's most recent population estimate to calculate the ratio. The ratios will be published in the Reference Manual. Geographic area will be eligible for points as described in clauses (i) through (iv) of this subparagraph.

(i) A city or county with no LIHTC developments will receive eight points.

(ii) A city or county with a ratio greater than zero and less than one will receive six points.

(iii) A city or county with a ratio equal to or greater than one, but less than two, will receive two points.

(iv) A city or county with a ratio greater than four, will have four points deducted from its score.

(2) Housing Needs Characteristics. Each Development, dependent on the city or county where it is located, will yield a score based on the Uniform Housing Needs Scoring Component. If a Development is in an incorporated city, the city score will be used. If a Development is outside the boundaries of an incorporated city, then the county score will be used. The Uniform Housing Needs Scoring Component scores for each city and county will be published in the Reference Manual. (20 points maximum).

(3) Support and Consistency with Local Planning. All documents must not be older than 6 months from the close of the Application Acceptance Period. Points may be received under both subparagraph (A) or (B) of this paragraph.

(A) Evidence from the local municipal authority stating that the Development fulfills a need for additional affordable rental housing as evidenced in a local consolidated plan, comprehensive plan, or other local planning document; or a letter from the local municipal authority stating that there is no local plan and that the city supports the Development (6 points).

(B) Community Support. Points will be awarded based on the written statements of support from local and state elected officials representing constituents in areas that include the location of the Development and from neighborhood and/or community civic organizations for areas that encompass the location of the Development. Letters of support must identify the specific Development and must state support of the specific Development at the proposed location. This documentation must be provided as part of the Application. Letters of support from state officials that do not represent constituents in areas that include the location of the Development will not qualify for points under this Exhibit, nor do letters of support from organizations that are not active in the area that includes the location of the Development. For the purposes of this Exhibit neighborhood and/or community civic organizations do not include governmental entities, taxing entities or educational entities. Letters of support received after the close of the Application Acceptance Period will not be accepted for this Exhibit. Points can be awarded for letters of support as identified in clauses (i) through (iv) of this subparagraph, not to exceed a total of 6 points:

(i) from United States Representative or Senate Member (3 points each, maximum of 6 points)

(ii) from State of Texas Representative or Senate Member (2 points each, maximum of 4 points);

(iii) from the Mayor, County Judge, City Council Member, or County Commissioner indicating support; or a resolution from the local governing entity indicating support of the Development (maximum of 2 points);

(iv) from neighborhood and/or community civic organizations (1 point each, maximum of 2 points).

(4) Development Characteristics. Developments may receive points under as many of the following subparagraphs as are applicable; however to qualify for points under subparagraphs (B) through (H) of this paragraph, the Development must first meet the minimum requirements identified under subparagraph (A) of this paragraph, unless otherwise provided in the particular subparagraph. This minimum requirement does not apply to Developments involving rehabilitation or Developments receiving funding from TX-USDA-RHS.

(A) Unit Size. The square feet of all of the units in the Development, for each type of unit, must be at minimum:

(i) 500 square feet for an efficiency unit;

(ii) 650 square feet for a non-elderly one bedroom unit; 550 square feet for an elderly one bedroom unit;

(iii) 900 square feet for a two bedroom unit; 750 square feet for an elderly two bedroom unit;

(iv) 1,000 square feet for a three bedroom unit; and

(v) 1,200 square feet for a four bedroom unit.

(B) Cost per Square Foot. For this exhibit hard costs shall be defined as construction costs, including site work, contractor profit, overhead and general requirements, as represented in the Development Cost Schedule. This calculation does not include indirect construction costs. The calculation will be hard costs per square foot of net rentable area (NRA). The calculations will be based on the hard cost listed in the Development Cost Schedule and NRA shown in the Rent Schedule of the Application. Developments do not exceed \$60 per square foot. (1 point).

(C) Unit Amenities and Quality. Developments providing specific amenity and quality features in every Unit at no extra charge to the tenant will be awarded points based on the point structure provided in clauses (i) through (xii) of this subparagraph, not to exceed 10 points in total. Developments involving rehabilitation will double the points listed for each item, not to exceed 10 points in total.

(i) Covered entries (1 point);

(ii) Computer line/phone jack available in all bedrooms (only one phone line needed) (1 point);

(iii) Mini blinds or window coverings for all windows (1 point);

(iv) Ceramic tile floors in entry, kitchen and bathrooms (2 points);

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- (v) laundry connections (1 point);
- (vi) storage room or closet, of approximately 9 square feet or greater, which does not include bedroom, entryway or linen closets (1 point);
- (vii) Laundry equipment (washers and dryers) in units (3 points);
- (viii) Twenty-five year architectural shingle roofing (1 point);
- (ix) Covered patios or covered balconies (1 point);
- (x) Covered parking of at least one covered space per Unit (2 points);
- (xi) Garages, which do not also qualify as covered parking (3 points);
- (xii) Greater than 75% masonry on exterior, excluding cementitious board products (3 points);

(D) The Development is an existing Residential Development without maximum rent limitations or set-asides for affordable housing for which the proposed rehabilitation is part of a community revitalization plan. If maximum rent limitations had existed previously, then the restrictions must have expired at least one year prior to the date of Application to the Department (4 points).

(E) The Development is a mixed-income Development comprised of both market rate Units and qualified tax credit Units. Points will be awarded to Development's with a Unit based Applicable Fraction which is no greater than:

- (i) 80% (8 points); or,
- (ii) 85% (6 points); or,
- (iii) 90% (4 points); or
- (iv) 95% (2 points).

(F) Evidence that the proposed historic Residential Development has received an historic property designation by a federal, state or local Governmental Entity. Such evidence must be in the form of a letter from the designating entity identifying the Development by name and address and stating that the Development is:

- (i) listed in the National Register of Historic Places under the United States Department of the Interior in accordance with the National Historic Preservation Act of 1966;
- (ii) located in a registered historic district and certified by the United States Department of the Interior as being of historic significance to that district;
- (iii) identified in a city, county, or state historic preservation list; or
- (iv) designated as a state landmark (6 points).

(G) The Development consists of not more than 36 Units and is not a part of, or contiguous to, a larger Development (5 points).

(H) Evidence that the proposed Development is partially funded by a HOPE VI, Section 202 or Section 811 grant or project-based Section 8 voucher from HUD; or a Community Development Block Grant or HOME award. If the proposed Development involves a Section 811 grant the Applicant must provide evidence that the Development will comply with the Department's definition of Integrated Housing. The Development must have already applied for funding from the funding entity. Evidence shall include a copy of the application to the funding entity and a letter from the funding entity indicating that the application was received. Notice of actual commitment must be received consistent with §49.9(e)(6)(D)(iii). In the event that an award is not made by the funding entity, the Department will reevaluate the Application to ensure its continued financial feasibility (5 points).

(5) Sponsor Characteristics. Developments may only receive points for one of the three criteria listed in subparagraphs (A) through (C) of this paragraph. To satisfy the requirements of subparagraphs (A) or (B) of this paragraph, a copy of an agreement between the two partnering entities must be provided which shows that the nonprofit organization or HUB will hold an ownership interest in and materially participate (within the meaning of the Code §469(h)) in the development and operation of the Development throughout the Compliance Period and clearly identifies the ownership percentages of all parties (3 points maximum for one of subparagraphs (A) through (C) of this paragraph).

(A) Evidence that a HUB, as certified by the Texas Building and Procurement Commission (formerly General Services Commission), has an ownership interest in and materially participates in the development and operation of the Development throughout the Compliance Period. To qualify for these points, the Applicant must submit a certification from the Texas Building and Procurement Commission (formerly General Services Commission) that the Person is a HUB at the close of the Application Acceptance Period. Evidence will need to be supplemented, either at the time the Application is submitted or at the time a HUB certification renewal is received by the Applicant, confirming that the certification is valid through July 31, 2003 and renewable after that date.

(B) Joint Ventures with Qualified Nonprofit Organizations. Evidence that the Development involves a joint venture between a for profit organization and a Qualified Nonprofit Organization. The Qualified Nonprofit Organization must be materially participating in the Development as one of the General Partners (or Managing Members), but is not required to have Control, to receive these points. However, to also be eligible for the

Nonprofit Set-Aside, as further described in §49.7 of this title, the Qualified Nonprofit Organization must have Control.

(C) The proposed Development involves the rehabilitation of existing Units, or on- or off-site replacement of Units, that are owned by a Public Housing Authority, and which Units, or replacement Units, will continue to be owned by a partnership Controlled by said Public Housing Authority or its nonprofit affiliate as evidenced by a partnership agreement showing the Control by the said Public Housing Authority. A Housing Finance Agency is not considered to be a Public Housing Authority for purposes of this exhibit.

(6) Development Provides Supportive Services to Tenants. Points may be received under both subparagraphs (A) and (B) of this paragraph.

(A) An Applicant will receive points for coordinating their tenant services with those services provided through state workforce development and welfare programs as evidenced by execution of a Tenant Supportive Services Certification (2 points).

(B) The Development Owner must certify that the Development will provide a combination of special supportive services appropriate for the proposed tenants. The provision of supportive services will be included in the LURA as selected from the list of services identified in this paragraph. Services must be provided on-site or transportation to off-site services must be provided (maximum of 6 points).

(i) Applicants will be awarded points for selecting services listed in clause (ii) of this subparagraph based on the following scoring range:

(I) Two points will be awarded for providing one of the services; or

(II) Four points will be awarded for providing two of the services; or

(III) Six points will be awarded for providing three of the services.

(ii) Service options include child care; transportation; basic adult education; legal assistance; counseling services; GED preparation; English as a second language classes; vocational training; home buyer education; credit counseling; financial planning assistance or courses; health screening services; health and nutritional courses; youth programs; scholastic tutoring; social events and activities; senior meal program; home-delivered meal program; community gardens or computer facilities; any other programs described under Title IV-A of the Social Security Act (42 U.S.C. §§ 601 et seq.) which enables children to be cared for in their homes or the homes of relatives; ends the dependence of needy families on government benefits by promoting job preparation, work and marriage; prevents and reduces the incidence of out-of wedlock pregnancies; and encourages the formation and maintenance of two-parent families; or any other services approved in writing by the Department.

(7) Tenant Characteristics - Populations with Special Needs. Evidence that the Development is designed solely for transitional housing for homeless persons on a non-transient basis, with supportive services designed to assist tenants in locating and retaining permanent housing. For the purpose of this exhibit, homeless persons are individuals or families that lack a fixed, regular, and adequate nighttime residence as more fully defined in 24 Code of Federal Regulations, §91.5, and as may be amended from time to time. All of the items described in subparagraphs (A) through (E) of this paragraph must be submitted:

(A) a detailed narrative describing the type of proposed housing;

(B) a referral agreement, not more than 12 months old from the first day of the Application Acceptance Period, with an established organization which provides services to the homeless;

(C) a marketing plan designed to attract qualified tenants and housing providers;

(D) a list of supportive services; and

(E) adequate additional income source to supplement any anticipated operating and funding gaps (15 points).

(8) Serving Low Income Tenants. Applicants may receive points for serving low income tenants under both sub-paragraphs (A) and (B) of this paragraph.

(A) Applicants will be eligible for points for serving tenants with rents below the maximum tax credit rents for each level of AMGI represented in the Rent Schedule (30%, 40%, 50%, 60%) for only one of the clauses listed in this subparagraph. The calculation for these points will be made based on the figures provided in the Rent Schedule submitted with the Application. All representations and commitments made will be reflected in the LURA. The Development Owner, upon making a selection for this exhibit, will maintain the Units at the selected reduced rents continuously over the compliance and extended use period as specified in the LURA. For purposes of compliance with these representations, Units rented to Section 8 voucher holders are excluded, unless the actual rent charged for such Units, as opposed to the tenant contribution, meets the requirement:

(i) All low income rents are 5% less than the maximum tax credit rents (4 points); or

(ii) All low income rents are 10% less than the maximum tax credit rents (8 points); or

(iii) All low income rents are 15% less than the maximum tax credit rents (12 points).

(B) Low Income Targeting Points. An Applicant may qualify for points under clause (iii) of this subparagraph. To qualify for these points, the rents for the rent-restricted Units must not be higher than the

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allowable tax credit rents at the rent-restricted AMGI level. For Section 8 residents, or other rental assistance tenants, the tenant paid rent plus the utility allowance is compared to the rent limit to determine compliance. The Development Owner, upon making selections for this exhibit will set aside Units at the rent-restricted levels of AMGI and will maintain the percentage of such Units continuously over the compliance and extended use period as specified in the LURA.

(i) No more than 50% of the total number of low income units (including Units at 60% of AMGI) will be counted as designated for tenants at or below 50% of the AMGI for purposes of determining the points in the 50%, 40% and 30% AMGI categories. No more than 30% of the total number of low income targeted units will be counted as designated for tenants at or below 40% of the AMGI for purposes of determining the points in the 40% and 30% AMGI categories. No more than 20% of the total number of low income targeted units will be counted as designated for tenants at or below 30% of the AMGI for purposes of determining the points in the 30% AMGI category. For purposes of calculating "Total Low Income Targeted Units" for this exhibit, Units at 60% of AMGI are not considered.

(ii) For purposes of calculating points no Unit may be counted twice in determining point eligibility.

(iii) Developments should be scored based on the structure in the table below. Only Developments located in cities (or counties for Developments not located within a city) whose AMGI is below the statewide AMGI, may use Weight Factor B. All other Applicants are required to use Weight Factor A.

% of AMGI	# of Rent Restricted Units (a)	Portion of Rent Restricted Units (a/b)	Weight A	OR	Weight B*	Points
50%	(a)	(c)	X	5	10	_____
40%	(a)	(c)	X	15	20	_____
30%	(a)	(c)	X	30	40	_____
TOTAL LI TARGETED UNITS* (b)					TOTAL POINTS =	_____
*Excludes Units at 60% of AMGI						

(9) Length of Affordability Period. In accordance with the Code, each Development is required to maintain its affordability for a 15-year compliance period and, subject to certain exceptions, an additional 15-year extended use period. Applicants that are willing to extend the affordability period for a Development beyond the 30 years required in the Code may receive points as follows:

(A) Add 5 years of affordability after the extended use period for a total affordability period of 35 years (8 points); or

(B) Add 10 years of affordability after the extended use period for a total affordability period of 40 years (12 points).

(10) Evidence that Development Owner agrees to provide a right of first refusal to purchase the Development upon or following the end of the Compliance Period for the minimum purchase price provided in, and in accordance with the requirements of, §42(i)(7) of the Code (the "Minimum Purchase Price"), to a Qualified Nonprofit Organization, the Department, or either an individual tenant with respect to a single family building, or a tenant cooperative, a resident management corporation in the Development or other association of tenants in the Development with respect to multifamily developments (together, in all such cases, including the tenants of a single family building, a "Tenant Organization"). Development Owner may qualify for these points by providing the right of first refusal in the following terms (5 points).

(A) Upon the earlier to occur of:

(i) the Development Owner's determination to sell the Development, or

(ii) the Development Owner's request to the Department, pursuant to §42(h)(6)(E)(II) of the Code, to find a buyer who will purchase the Development pursuant to a "qualified contract" within the meaning of §42(h)(6)(F) of the Code, the Development Owner shall provide a notice of intent to sell the Development ("Notice of Intent") to the Department and to such other parties as the Department may direct at that time. If the Development Owner determines that it will sell the Development at the end of the Compliance Period, the Notice of Intent shall be given no later than two years prior to expiration of the Compliance Period. If the Development Owner determines that it will sell the Development at some point later than the end of the

Compliance Period, the Notice of Intent shall be given no later than two years prior to date upon which the Development Owner intends to sell the Development.

(B) During the two years following the giving of Notice of Intent, the Sponsor may enter into an agreement to sell the Development only in accordance with a right of first refusal for sale at the Minimum Purchase Price with parties in the following order of priority:

- (i) during the first six-month period after the Notice of Intent, only with a Qualified Nonprofit Organization that is also a community housing development organization, as defined for purposes of the federal HOME Investment Partnerships Program at 24 C.F.R. § 92.1 (a "CHDO") and is approved by the Department,
- (ii) during the second six-month period after the Notice of Intent, only with a Qualified Nonprofit Organization or a Tenant Organization; and
- (iii) during the second year after the Notice of Intent, only with the Department or with a Qualified Nonprofit Organization approved by the Department or a Tenant Organization approved by the Department.

(iv) If, during such two-year period, the Development Owner shall receive an offer to purchase the Development at the Minimum Purchase Price from one of the organizations designated in clauses (i), (ii), and (iii) of this subparagraph (within the period(s) appropriate to such organization), the Development Owner shall sell the Development at the Minimum Purchase Price to such organization. If, during such period, the Development Owner shall receive more than one offer to purchase the Development at the Minimum Purchase Price from one or more of the organizations designated in clauses (i), (ii), and (iii) of this subparagraph (within the period(s) appropriate to such organizations), the Development Owner shall sell the Development at the Minimum Purchase Price to whichever of such organizations it shall choose.

(C) After whichever occurs later of:

- (i) the end of the Compliance Period; or
- (ii) two years from delivery of a Notice of Intent,

the Development Owner may sell the Development without regard to any right of first refusal established by the LURA if no offer to purchase the Development at or above the Minimum Purchase Price has been made by a Qualified Nonprofit Organization, a Tenant Organization or the Department, or a period of 120 days has expired from the date of acceptance of all such offers as shall have been received without the sale having occurred, provided that the failure(s) to close within any such 120-day period shall not have been caused by the Development Owner or matters related to the title for the Development.

(D) At any time prior to the giving of the Notice of Intent, the Development Owner may enter into an agreement with one or more specific Qualified Nonprofit Organizations and/or Tenant Organizations to provide a right of first refusal to purchase the Development for the Minimum Purchase Price, but any such agreement shall only permit purchase of the Development by such organization in accordance with and subject to the priorities set forth in subparagraph (B) of this paragraph.

(E) The Department shall, at the request of the Development Owner, identify in the LURA a Qualified Nonprofit Organization or Tenant Organization which shall hold a limited priority in exercising a right of first refusal to purchase the Development at the Minimum Purchase Price, in accordance with and subject to the priorities set forth in subparagraph (B) of this paragraph.

(F) The Department shall have the right to enforce the Development Owner's obligation to sell the Development as herein contemplated by obtaining a power-of-attorney from the Development Owner to execute such a sale or by obtaining an order for specific performance of such obligation or by such other means or remedy as shall be, in the Department's discretion, appropriate.

(11) Pre-Application Points. Developments which submit a Pre-Application during the Pre-Application Acceptance Period and meet the requirements of this paragraph shall receive 7 points. To be eligible for these points, the proposed Development in the Application must:

- (A) be for the identical site as the proposed Development in the Pre-Application;
- (B) have met the Pre-Application Threshold Criteria;
- (C) be serving the same target population (family or elderly) as in the Pre-Application in the same Set-Asides; and
- (D) achieve an Application score that is not more than 5% greater or less than the number of points requested at Pre-Application.

(12) Point Reductions. Penalties will be imposed on Applicant if the Applicant or any of its Affiliates who have requested extensions of Department deadlines, and did not meet the original submission deadlines, relating to developments receiving a housing tax credit commitment made in the application round preceding the current round. Applicants or Affiliates having filed an extension, but that met the original deadline as required, will not have points deducted. Extensions that will receive penalties include all types of extensions identified in §49.21 of this title, received on or before the close of Application Acceptance Period, including Developments whose

extensions were authorized by the Board. For each extension request made, the Applicant will be required to pay a \$2,500 extension fee as provided in §49.21(k) of this title and receive a 2 point deduction.

(g) **Evaluation Factors.** In the event that two or more Applications receive the same number of points in any given Set-Aside category and Uniform State Service Region, and are both practicable and economically feasible, the Department will utilize the factors in paragraphs (1) through (6) of this subsection, in the order they are presented, to determine which Development will receive a preference in consideration for a tax credit commitment. In addition, the Committee and Board may also choose to evaluate Applications and proposed Developments, including Tax Exempt Bond Developments, on the basis of factors other than (or in addition to) scoring, for one or more of the following reasons:

- (1) to serve a greater number of lower income families for fewer credits;
- (2) to ensure geographic dispersion within each Uniform State Service Region;
- (3) to ensure the Development's consistency with local needs or its impact as part of a revitalization or preservation plan;
- (4) to ensure the allocation of credits among as many different entities as practicable without diminishing the quality of the housing that is built as required under the Texas General Appropriations Act applicable to the Department;
- (5) to give preference to a Development which is located in a QCT or a Difficult Development Area as specifically designated by the Secretary of HUD, and which also contributes to a concerted community revitalization plan; and
- (6) to provide integrated, affordable accessible housing for individuals and families with different levels of income.

(h) **Staff Recommendations.** After eligible Applications have been evaluated, ranked and underwritten in accordance with the QAP and the Rules, the Department staff shall make its recommendations to the Executive Award and Review Advisory Committee. The Committee will develop funding priorities and shall make commitment recommendations to the Board. Such recommendations and supporting documentation shall be made in advance of the meeting at which the issuance of Commitment Notices or Determination Notices shall be discussed. The Committee will provide written, documented recommendations to the Board which will address at a minimum the financial or programmatic viability of each Application and a list of all submitted Applications which enumerates the reason(s) for the Development's proposed selection or denial, including all evaluation factors provided in §49.9(g) of this title that were used in making this determination.

§49.10 Board Decisions; Waiting List; Forward Commitments

(a) **Board Decisions.** The Board's decisions shall be based upon its evaluation of proposed Developments' consistency with the criteria and requirements set forth in the QAP and the Rules.

(1) In making a determination to allocate tax credits, the Board shall be authorized not to rely solely on the number of points scored by an Applicant. It shall in addition, be entitled to take into account, as appropriate, the factors described in §49.9(g) of this title. If the Board disapproves or fails to act upon the Application, the Department shall issue to the Development Owner a written notice stating the reason(s) for the Board's disapproval or failure to act.

(2) Before the Board approves any Development Application, the Department shall assess the compliance history of the Applicant and any Affiliate of the Applicant with respect to all applicable requirements; and the compliance issues associated with the proposed Development. The Committee shall provide to the Board a written report regarding the results of the assessments. The written report will be included in the appropriate Development file for Board and Department review. The Board shall fully document and disclose any instances in which the Board approves a Development Application despite any noncompliance associated with the Development, Applicant or Affiliate.

(3) On awarding a tax credit commitment, the Board shall document the reasons for each Development's selection, including an explanation of all discretionary factors used in making its determination, and the reasons for any decision that conflicts with the recommendations made by Department staff. The Board may not make, without good cause, a commitment decision that conflicts with the recommendations of The Committee.

(b) **Waiting List.** If the entire State Housing Credit Ceiling for the applicable calendar year has been committed or allocated in accordance with this chapter, the Board shall generate a waiting list of additional Applications ranked by score in descending order of priority based on Set-Aside categories and regional allocation goals. If at any time prior to the end of the Application Round, one or more Commitment Notices expire and a sufficient amount of the State Housing Credit Ceiling becomes available, the Board shall issue a Commitment Notice to Applications on the waiting list subject to the amount of returned credits, the regional allocation goals and the Set-Aside categories, including the 10% Nonprofit Set-Aside allocation required under the Code,

§42(h)(5). At the end of each calendar year, all Applications which have not received a Commitment Notice shall be deemed terminated. The Applicant may re-apply to the Department during the next Application Acceptance Period.

(c) **Forward Commitments.** The Board may determine to issue commitments of tax credit authority with respect to Developments from the State Housing Credit Ceiling for the calendar year following the year of issuance (each a "forward commitment"). The Board will utilize its discretion in determining the amount of credits to be allocated as forward commitments and the reasons for those commitments in meeting compelling housing needs. The Board may utilize the forward commitment authority to allocate credits to TX-USDA-RHS Developments which are experiencing foreclosure or loan acceleration at any time during the 2003 calendar year.

(1) Unless otherwise provided in the Commitment Notice with respect to a Development selected to receive a forward commitment, actions which are required to be performed under this chapter by a particular date within a calendar year shall be performed by such date in the calendar year of the anticipated commitment rather than in the calendar year of the forward commitment.

(2) Any forward commitment made pursuant to this section shall be made subject to the availability of State Housing Credit Ceiling in the calendar year with respect to which the forward commitment is made. If a forward commitment shall be made with respect to a Development placed in service in the year of such commitment, the forward commitment shall be a "binding commitment" to allocate the applicable credit dollar amount within the meaning of the Code, §42(h)(1)(C).

(3) If tax credit authority shall become available to the Department later in a calendar year in which forward commitments have been awarded, the Department may allocate such tax credit authority to any eligible Development which received a forward commitment, in which event the forward commitment shall be canceled with respect to such Development.

§49.11. Required Application Notifications, Receipt of Public Comment, and Meetings with Applicants; Viewing of Pre-Applications and Applications; Confidential Information.

(a) Required Application Notifications, Receipt of Public Comment, and Meetings with Applicants.

(1) Within approximately seven business days after the close of the Pre-Application Acceptance Period, the Department shall publish a Pre-Application Submission Log on its web site. Such log shall contain the Development name, address, Set-Aside, number of units, requested credits, owner contact name and phone number.

(2) Approximately 30 days before the close of the Application Acceptance Period, the Department will release the evaluation and assessment of the Pre-Applications on its web site.

(3) Within approximately 15 business days after the close of the Application Acceptance Period, the Department shall:

(A) publish an Application submission log on its web site.

(B) give notice of a proposed Development in writing to the:

(i) mayor or other equivalent chief executive officer of the municipality, if the Development or a part thereof is located in a municipality; otherwise the Department shall notify the chief executive officer of the county in which the Development or a part thereof is located, to advise such individual that the Development or a part thereof will be located in his/her jurisdiction and request any comments which such individual may have concerning such Development. If the local municipal authority expresses opposition to the Development, the Department will give consideration to the objections raised and will visit the proposed site or Development within 30 days of notification to conduct a physical inspection of the Development site and consult with the mayor or county judge before the Application is scored, if opposition is received prior to scoring being completed; and

(ii) state representative and state senator representing the area where a Development would be located. The state representative or senator may hold a community meeting at which the Department shall provide appropriate representation.

(C) The elected officials identified in clauses (i) and (ii) of subparagraph (B) of this paragraph will be provided an opportunity to comment on the Application during the Application evaluation process.

(4) The Department shall hold at least three public hearings in different Uniform State Service Regions of the state to receive comment on the submitted Applications and on other issues relating to the Low Income Housing Tax Credit Program.

(5) The Department shall provide notice of and information regarding public hearings, Board meetings and Application opening and closing dates relative to housing tax credits to local housing departments, to appropriate newspapers of general or limited circulation that serve the community in which a proposed Development is to be located, to nonprofit organizations, to on-site property managers of occupied

developments that are the subject of Applications for posting in prominent locations at those Developments, and to any other interested persons including community groups, who request the information and shall post all such information to its web site.

(6) Approximately forty days prior to the date of the July Board meeting at which the issuance of Commitment Notices shall be discussed, the Department will notify each Applicant of the receipt of any opposition received by the Department relating to his or her Development at that time.

(7) Not later than the third working day after the date of the relevant determinations, the results of each stage of the Application process, including the results of the Application scoring and underwriting phases and the commitment phase, will be posted to the Department's web site.

(8) At least thirty days prior to the date of the July Board meeting at which the issuance of Commitment Notices or Determination Notices shall be discussed, the Department will:

(A) provide the Application scores to the Board;

(B) if feasible, post to the Department's web site the entire Application, including all supporting documents and exhibits, the Application Log as further described in §49.20(b) of this title, a scoring sheet providing details of the Application score, and any other documents relating to the processing of the Application.

(9) A summary of comments received by the Department on specific Applications shall be part of the documents required to be reviewed by the Board under this subsection if it is received 30 business days prior to the date of the Board Meeting at which the issuance of Commitment Notices or Determination Notices shall be discussed. Comments received after this deadline will not be part of the documentation submitted to the Board. However, a public comment period will be available prior to the Board's decision, at the Board meeting where tax credit commitment decisions will be made.

(10) Not later than the 120th day after the date of the initial issuance of Commitment Notices for housing tax credits, the Department shall provide an Applicant who did not receive a commitment for housing tax credits with an opportunity to meet and discuss with the Department the Application's deficiencies, scoring and underwriting.

(b) **Viewing of Pre-Applications and Applications.** Pre-Applications and Applications for tax credits are public information and are available upon request after the Pre-Application and Application Acceptance Periods close, respectively. All Pre-Applications and Applications, including all exhibits and other supporting materials, except Personal Financial Statements and Social Security numbers, will be made available for public disclosure after the Pre-Application and Application periods close, respectively. The content of Personal Financial Statements may still be made available for public disclosure upon request if the Attorney General's office deems it is not protected from disclosure by the Texas Public Information Act.

(c) **Confidential Information.** The Department may treat the financial statements of any Applicant as confidential and may elect not to disclose those statements to the public. A request for such information shall be processed in accordance with §552.305 of the Government Code.

§49.12. Tax Exempt Bond Developments: Filing of Applications, Applicability of Rules, Supportive Services, Financial Feasibility Evaluation, Satisfaction of Requirements.

(a) **Filing of Applications for Tax Exempt Bond Developments.** Applications for a Tax Exempt Bond Development may be submitted to the Department as described in paragraphs (1) and (2) of this subsection:

(1) Applicants which receive advance notice of a Program Year 2003 reservation as a result of the Texas Bond Review Board's (TBRB) lottery for the private activity volume cap must file a complete Application not later than 60 days after the date of the TBRB lottery. Such filing must be accompanied by the Application fee described in §49.21 of this title.

(2) Applicants which receive advance notice of a Program Year 2003 reservation after being placed on the waiting list as a result of the TBRB lottery for private activity volume cap must submit Volume 1 of the Application and the Application fee described in §49.21 of this title prior to the Applicant's bond reservation date as assigned by the TBRB. Any outstanding documentation required under this section must be submitted to the Department at least 45 days prior to the Board meeting at which the decision to issue a Determination Notice would be made.

(b) **Applicability of Rules for Tax Exempt Bond Developments.** Tax Exempt Bond Development Applications are subject to all rules in this title, with the only exception being to the following sections: §49.4, §49.7, §49.8, §49.9(c)(2) and (3), §49.9(f), §49.10(b) and (c), §49.11(a) and §49.14 of this title. Such Developments requesting a Determination Notice in the current calendar year must meet all Threshold Criteria requirements stipulated in §49.9(e) of this title. Such Developments which received a Determination Notice in a prior calendar year must meet all Threshold Criteria requirements stipulated in the QAP and Rules in effect for the calendar year in which the Determination Notice was issued; provided, however, that such Developments

shall comply with all procedural requirements for obtaining Department action in the current QAP and Rules; and such other requirements of the QAP and Rules as the Department determines applicable. At the time of Application, Developments must demonstrate the Development's consistency with the bond issuer's consolidated plan or other similar planning document. Consistency with the local municipality's consolidated plan or similar planning document must also be demonstrated in those instances where the city or county has a consolidated plan.

(c) **Supportive Services for Tax Exempt Bond Developments.** Tax Exempt Bond Development Applications must provide an executed agreement with a qualified service provider for the provision of special supportive services that would otherwise not be available for the tenants. The provision of these services will be included in the LURA. Acceptable services as described in paragraphs (1) through (3) of this paragraph include:

(1) the services must be in one of the following categories: child care, transportation, basic adult education, legal assistance, counseling services, GED preparation, English as a second language classes, vocational training, home buyer education, credit counseling, financial planning assistance or courses, health screening services, health and nutritional courses, youth programs, scholastic tutoring, social events and activities, community gardens or computer facilities; or

(2) any other program described under Title IV-A of the Social Security Act (42 U.S.C. §§ 601 et seq.) which enables children to be cared for in their homes or the homes of relatives; ends the dependence of needy families on government benefits by promoting job preparation, work and marriage; prevents and reduces the incidence of out-of wedlock pregnancies; and encourages the formation and maintenance of two-parent families, or

(3) any other services approved in writing by the Issuer. The plan for tenant supportive services submitted for review and approval of the Issuer must contain a plan for coordination of services with state workforce development and welfare programs. The coordinated effort will vary depending upon the needs of the tenant profile at any given time as outlined in the plan.

(d) **Financial Feasibility Evaluation for Tax Exempt Bond Developments.** Code §42(m)(2)(D) requires the bond issuer (if other than the Department) to make sure that a Tax Exempt Bond Development does not receive more tax credits than the amount needed for the financial feasibility and viability of a Development throughout the Compliance Period. Treasury Regulations prescribe the occasions upon which this determination must be made. In light of the requirement, issuers may either elect to underwrite the Development for this purpose in accordance with the QAP and the Underwriting Rules and Guidelines, 10 TAC §1.32 of this title or request that the Department perform the function. If the issuer underwrites the Development, the Department will, nonetheless, review the underwriting report and may make such changes in the amount of credits which the Development may be allowed as are appropriate under the Department's guidelines. The Determination Notice issued by the Department and any subsequent IRS Form(s) 8609 will reflect the amount of tax credits for which the Development is determined to be eligible in accordance with this paragraph, and the amount of tax credits reflected in the IRS Form 8609 may be greater or less than the amount set forth in the Determination Notice, based upon the Department's and the bond issuer's determination as of each building's placement in service. Any increase of tax credits, from the amount specified in the Determination Notice, at the time of each building's placement in service will only be permitted if it is deemed that causes for the increased Eligible Basis were beyond the control of the Development Owner, were not foreseeable by the Development Owner at the time of Application and were not preventable during the construction of the Development, as determined by the Board.

(e) **Satisfaction of Requirements for Tax Exempt Bond Developments.** If the Department staff determines that all requirements of this section have been met, the Board, shall authorize the Department to issue a Determination Notice to the Applicant that the Development satisfies the requirements of the QAP and Rules in accordance with the Code, §42(m)(1)(D).

§49.13 Commitment and Determination Notices; Agreement and Election Statement.

(a) **Commitment and Determination Notices.** If the Board approves an Application, the Department will:

(1) if the Application is for a commitment from the State Housing Credit Ceiling, issue a Commitment Notice to the Development Owner which shall:

(A) confirm that the Board has approved the Application; and

(B) state the Department's commitment to make a Housing Credit Allocation to the Applicant in a specified amount, subject to the feasibility determination described at §49.17 of this title, and compliance by the Development Owner with the remaining requirements of this chapter and any other terms and conditions set forth therein by the Department. This commitment shall expire on the date specified therein unless the Development Owner indicates acceptance of the commitment by executing the Commitment Notice or

Determination Notice, pays the required fee specified in §49.21 of this title, and satisfies any other conditions set forth therein by the Department. A Development Owner may request an extension of the Commitment Notice expiration date by submitting an extension request and associated extension fee as described in §49.21 of this title. In no event shall the expiration date of a Commitment Notice be extended beyond the last business day of the applicable calendar year.

(2) if the Application is with respect to a Tax Exempt Bond Development, issue a Determination Notice to the Development Owner which shall:

(A) confirm the Board's determination that the Development satisfies the requirements of this QAP; and

(B) state the Department's commitment to issue IRS Form(s) 8609 to the Applicant in a specified amount, subject to the requirements set forth at §49.12 of this title and compliance by the Development Owner with all applicable requirements of this title and any other terms and conditions set forth therein by the Department. The Determination Notice shall expire on the date specified therein unless the Development Owner indicates acceptance by executing the Determination Notice and paying the required fee specified in §49.21 of this title. The Determination Notice shall also expire unless the Development Owner satisfies any conditions set forth therein by the Department within the applicable time period.

(3) notify, in writing, the mayor or other equivalent chief executive officer of the municipality in which the Property is located informing him/her of the Board's issuance of a Commitment Notice or Determination Notice, as applicable.

(4) A Commitment or Determination Notice shall not be issued with respect to any Development for an unnecessary amount or where the cost for the total development, acquisition, construction or rehabilitation exceeds the limitations established from time to time by the Department and the Board, unless the Department staff make a recommendation to the Board based on the need to fulfill the goals of the Low Income Housing Tax Credit Program as expressed in this QAP and Rules, and the Board accepts the recommendation. The Department's recommendation to the Board shall be clearly documented.

(5) A Commitment or Determination Notice shall not be issued with respect to any Development in violation of the Concentration Policy, unless The Committee makes a recommendation to the Board based on the need to fulfill the goals of the Low Income Housing Tax Credit Program as expressed in this QAP and Rules, and the Board accepts the recommendation. The Department's recommendation to the Board shall be clearly documented.

(6) A Commitment or Determination Notice shall not be issued with respect to the Applicant, the Development Owner, or the General Contractor, or any Affiliate of the Applicant, the Development Owner, or the General Contractor that is active in the ownership or control of one or more other low income rental housing properties in the state of Texas funded by the Department, or outside the state of Texas, that is in Material Non-Compliance with the LURA (or any other document containing an Extended Low Income Housing Commitment) or the program rules in effect for such property as of June 30, 2003 (or for Tax Exempt Bond Developments as of 10 business days prior to the Board's vote to allocate credits. Any corrective action documentation affecting the Material Non-Compliance status score for Applicants must be received by the Department no later than May 15, 2003 (or for Tax Exempt Bond Developments no later than 20 business days prior to the Board's vote to allocate credits).

(b) **Agreement and Election Statement.** Together with or following the Development Owner's acceptance of the commitment or determination, the Development Owner may execute an Agreement and Election Statement, in the form prescribed by the Department, for the purpose of fixing the Applicable Percentage for the Development as that for the month in which the Commitment was accepted (or the month the bonds were issued for Tax Exempt Bond Developments), as provided in the Code, §42(b)(2). Current Treasury Regulations, §1.42-8(a)(1)(v), suggest that in order to permit a Development Owner to make an effective election to fix the Applicable Percentage for a Development, the Carryover Allocation Document must be executed by the Department and the Development Owner within the same month. The Department staff will cooperate with a Development Owner, as needed, to assure that the Commitment Notice can be so executed.

§49.14. Carryover, 10% Test.

(a) **Carryover.** All Developments which received a Commitment Notice, and will not be placed in service and receive IRS Form 8609 in the year the Commitment Notice was issued, must submit the Carryover documentation to the Department no later than November 1 of the year in which the Commitment Notice is issued. Commitments for credits will be terminated if the Carryover documentation, or an approved extension, has not been received by this deadline. In the event that a Development Owner intends to submit the Carryover documentation in October of the year in which the Commitment Notice is issued, in order to fix the Applicable

Percentage for the Development in October, it must be submitted no later than the first Friday in October. The Carryover Allocation format must be properly completed and delivered to the Department as prescribed by the Carryover Allocation Procedures Manual. All Carryover Allocations will be contingent upon the following, in addition to all other conditions placed upon the Application in the Commitment Notice:

(1) A current original plat or survey of the land, prepared by a duly licensed Texas Registered Professional Land Surveyor. Such survey shall conform to standards prescribed in the Manual of Practice for Land Surveying in Texas as promulgated and amended from time to time by the Texas Surveyors Association as more fully described in the Carryover Procedures Manual.

(2) A review of information provided by the IRS as permitted pursuant to IRS Form 8821, Tax Information Authorization, for the release of tax information relating to non-disclosure or recapture issues. Each Applicant must execute and provide to the Department Form 8821 within ten business days of the issuance of a Commitment Notice or Determination Notice. The form must be signed and executed on behalf of the Development Owner. Any information provided by the IRS will be evaluated by the Department in accordance with §49.3(53) of this title and may be utilized by the Board to determine if a Carryover Allocation will be made.

(3) Attendance of the Development Owner and Development architect at eight hours of Fair Housing training on or before the closing of the construction loan.

(b) **10% Test.** No later than six months from the date the Carryover Allocation Document is executed by the Department and the Development Owner, more than 10% of the Development Owner's reasonably expected basis has to have been incurred pursuant to §42(h)(1)(E)(i) and (ii) of the Internal Revenue Code and Treasury Regulations, §1.42-6. The evidence to support the satisfaction of this requirement must be submitted to the Department no later than June 30 in a format prescribed by the Department.

§49.15. Closing of the Construction Loan, Commencement of Substantial Construction.

(a) **Closing of the Construction Loan.** The Development Owner must submit evidence of having closed the construction loan no later than the second Friday in June of the year after the execution of the Carryover Allocation Document with the possibility of an extension as described in §49.21 of this title. At the time of submission of the documentation, the Development Owner must also submit a Management Plan and an Affirmative Marketing Plan as further described in the Carryover Allocation Procedures Manual. The Carryover Allocation will automatically be terminated if the Development Owner fails to meet the aforementioned closing deadline (taking into account any extensions), and has not had an extension approved, and all credits previously allocated to that Development will be recovered and become a part of the State Housing Credit Ceiling for the applicable year.

(b) **Commencement of Substantial Construction.** The Development Owner must commence and continue substantial construction activities not later than the second Friday in November of the year after the execution of the Carryover Allocation Document with the possibility of an extension as described in §49.21 of this title. The minimum activity necessary to meet the requirement of substantial construction for new Developments will be defined as having poured foundations for at least 50% of all of the buildings in the Development. The minimum activity necessary to meet the requirement of substantial construction for rehabilitation Developments will be defined as having expended 10% of the construction budget as documented by the inspecting architect. Evidence of such activity shall be provided in a format prescribed by the Department.

§49.16. Cost Certification, LURA.

(a) **Cost Certification.** Developments that will be placed in service and request IRS Forms 8609 in the year the Commitment Notice was issued must submit the required Cost Certification documentation and the compliance and monitoring fee to the Department by the second Friday in November of that same year. The Department will issue IRS Forms 8609 no later than 90 days from the date of receipt of the Cost Certification documentation, so long as all subsequent documentation requested by the Department related to the processing of the Cost Certification documentation has been provided on or before the seventy-fifth day from the date of receipt of the original Cost Certification documentation. Any deficiency letters issued to the Owner pertaining to the Cost Certification documentation will also be copied to the syndicator.

(b) **Land Use Restriction Agreement (LURA).** Prior to the Department's issuance of the IRS Form(s) 8609 for building(s) in a Development, the Development Owner must date, sign and acknowledge before a notary public a LURA and send the original to the Department for execution. The Development Owner shall then record said LURA, along with any and all exhibits attached thereto, in the real property records of the county where the Development is located and return the original document, duly certified as to recordation by the appropriate county official, to the Department. If any liens (other than mechanics' or materialmen's liens) shall have been recorded against the Development and/or the Property prior to the recording of the LURA, the Development

Owner shall obtain the subordination of the rights of any such lienholder, or other effective consent, to the survival of certain obligations contained in the LURA, which are required by §42(h)(6)(E)(ii) of the Code to remain in effect following the foreclosure of any such lien. Receipt of such certified recorded original LURA by the Department is required prior to issuance of IRS Form 8609. A representative of the Department shall physically inspect the Development for compliance with the Application and the representatives, warranties, covenants, agreements and undertakings contained therein. Such inspection will be conducted before the IRS Form 8609 is issued for a building, but it shall be conducted in no event later than the end of the second calendar year following the year the last building in the Development is placed in service. The Development Owner for Tax Exempt Bond Developments shall obtain a subordination agreement wherein the lien of the mortgage is subordinated to the LURA. If an Owner intends for the Department to execute a LURA by the end of a calendar year, then the proposed LURA, executed by the Owner and lienholder, if necessary, must be submitted to the Department for execution no later than December 1 of that calendar year.

§49.17. Housing Credit Allocations.

(a) In making a commitment of a Housing Credit Allocation under this chapter, the Department shall rely upon information contained in the Applicant's Application to determine whether a building is eligible for the credit under the Code, §42. The Applicant shall bear full responsibility for claiming the credit and assuring that the Development complies with the requirements of the Code, §42. The Department shall have no responsibility for ensuring that an Applicant who receives a Housing Credit Allocation from the Department will qualify for the housing credit.

(b) The Housing Credit Allocation Amount shall not exceed the dollar amount the Department determines is necessary for the financial feasibility and the long term viability of the Development throughout the Compliance Period. Such determination shall be made by the Department at the time of issuance of the Commitment Notice or Determination Notice; at the time the Department makes a Housing Credit Allocation; and as of the date each building in a Development is placed in service. Any Housing Credit Allocation Amount specified in a Commitment Notice, Determination Notice or Carryover Allocation Document is subject to change by the Department based upon such determination. Such a determination shall be made by the Department based on its evaluation and procedures, considering the items specified in the Code, §42(m)(2)(B), and the department in no way or manner represents or warrants to any Applicant, sponsor, investor, lender or other entity that the Development is, in fact, feasible or viable.

(c) The General Contractor hired by the Applicant must meet specific criteria as defined by the Seventy-fifth Legislature. A General Contractor hired by an Applicant or an Applicant, if the Applicant serves as General Contractor must demonstrate a history of constructing similar types of housing without the use of federal tax credits. Evidence must be submitted to the Department, in accordance with §49.9(e)(4)(G) of this title, which sufficiently documents that the General Contractor has constructed some housing without the use of Housing Tax Credits. This documentation will be required as a condition of the commitment notice or carryover agreement, and must be complied with prior to commencement of construction and at cost certification and final allocation of credits.

(d) An allocation will be made in the name of the Applicant identified in the related Commitment Notice or Determination Notice. If an allocation is made in the name of the party expected to be the General Partner or Managing Member in an eventual owner partnership or limited liability company, the Department may, upon request, approve a transfer of allocation to such owner partnership or limited liability company in which such party is the sole General Partner or Managing Member. Any other transfer of an allocation will be subject to review and approval by the Department. The approval of any such transfer does not constitute a representation to the effect that such transfer is permissible under §42 of the Code or without adverse consequences thereunder, and the Department may condition its approval upon receipt and approval of complete documentation regarding the new owner including all the criteria for scoring, evaluation and underwriting, among others, which were applicable to the original Applicant.

(e) The Department shall make a Housing Credit Allocation, either in the form of IRS Form 8609, with respect to current year allocations for buildings placed in service, or in the Carryover Allocation Document, for buildings not yet placed in service, to any Development Owner who holds a Commitment Notice which has not expired, and for which all fees as specified in §49.21 of this title have been received by the Department and with respect to which all applicable requirements, terms and conditions have been met. For Tax Exempt Bond Developments, the Housing Credit Allocation shall be made in the form of a Determination Notice. For an IRS Form 8609 to be issued with respect to a building in a Development with a Housing Credit Allocation, satisfactory evidence must be received by the Department that such building is completed and has been placed in service in accordance with the provisions of the Department's Cost Certification Procedures Manual. The Cost Certification

documentation requirements will include a certification and inspection report prepared by a Third-Party accredited accessibility inspector to certify that the Development meets all required accessibility standards. IRS Form 8609 will not be issued until the certifications are received by the Department. The Department shall mail or deliver IRS Form 8609 (or any successor form adopted by the Internal Revenue Service) to the Development Owner, with Part I thereof completed in all respects and signed by an authorized official of the Department. The delivery of the IRS Form 8609 will occur only after the Development Owner has complied with all procedures and requirements listed within the Cost Certification Procedures Manual. Regardless of the year of Application to the Department for Housing Tax Credits, the current year's Cost Certification Procedures Manual must be utilized when filing all cost certification materials. A separate Housing Credit Allocation shall be made with respect to each building within a Development which is eligible for a housing credit; provided, however, that where an allocation is made pursuant to a Carryover Allocation Document on a Development basis in accordance with the Code, §42(h)(1)(F), a housing credit dollar amount shall not be assigned to particular buildings in the Development until the issuance of IRS Form 8609s with respect to such buildings.

(f) In making a Housing Credit Allocation, the Department shall specify a maximum Applicable Percentage, not to exceed the Applicable Percentage for the building permitted by the Code, §42(b), and a maximum Qualified Basis amount. In specifying the maximum Applicable Percentage and the maximum Qualified Basis amount, the Department shall disregard the first-year conventions described in the Code, §42(f)(2)(A) and §42(f)(3)(B). The Housing Credit Allocation made by the Department shall not exceed the amount necessary to support the extended low income housing commitment as required by the Code, §42(h)(6)(C)(i).

(g) Development inspections shall be required to show that the Development is built or rehabilitated according to required plans and specifications. At a minimum, all Development inspections must include an inspection for quality during the construction process while defects can reasonably be corrected and a final inspection at the time the Development is placed in service. All such Development inspections shall be performed by the Department or by an independent, third party inspector acceptable to the Department. The Development Owner shall pay all fees and costs of said inspections as described in §49.21 of this title.

(h) After the entire Development is placed in service, which must occur prior to the deadline specified in the Carryover Allocation Document, the Development Owner shall be responsible for furnishing the Department with documentation which satisfies the requirements set forth in the Cost Certification Procedures Manual. For purposes of this title, a newly constructed or rehabilitated building is not placed in service until all units in such building have been completed and certified by the appropriate local authority or registered architect as ready for occupancy. The Cost Certification must be submitted for the entire Development; therefore partial Cost Certifications are not allowed. The Department may require copies of invoices and receipts and statements for materials and labor utilized for the new construction or rehabilitation and, if applicable, a closing statement for the acquisition of the Development as well as for the closing of all interim and permanent financing for the Development. If the Applicant does not fulfill all representations and commitments made in the Application, the Department may make reasonable reductions to the tax credit amount allocated via the IRS Form 8609, may withhold issuance of the IRS Form 8609s until these representations and commitments are met, and/or may terminate the allocation, if appropriate corrective action is not taken by the Development Owner.

(i) The Board at its sole discretion may allocate credits to a Development Owner in addition to those awarded at the time of the initial Carryover Allocation in instances where there is bona fide substantiation of cost overruns and the Department has made a determination that the allocation is needed to maintain the Development's financial viability as a Development.

(j) The Department may, at any time and without additional administrative process, determine to award credits to Developments previously evaluated and awarded credits if it determines that such previously awarded credits are or may be invalid and the owner was not responsible for such invalidity. The Department may also consider an amendment to a Commitment Notice or Carryover Allocation or other requirement with respect to a Development if the revisions:

- (1) are consistent with the Code and the Low Income Housing Tax Credit Program;
- (2) do not occur while the Development is under consideration for tax credits;
- (3) do not involve a change in the number of points scored (unless the Development's ranking is adjusted because of such change);
- (4) do not involve a change in the Development's site; or
- (5) do not involve a change in the set-aside election.

§49.18 Board Reevaluation, Appeals; Amendments, Housing Tax Credit and Ownership Transfers, Withdrawals, Cancellations.

(a) **Board Reevaluation.** Regardless of project stage, the Board shall reevaluate a Development that undergoes a substantial change between the time of initial Board approval of the Development and the time of issuance of a Commitment Notice or Determination Notice for the Development. For the purposes of this subsection, substantial change shall be those items identified in subsection (c)(3) of this section. The Board may revoke any Commitment Notice or Determination Notice issued for a Development that has been unfavorably reevaluated by the Board.

(b) **Appeals Process.** An Applicant may appeal decisions made by the Department.

(1) The decisions that may be appealed are identified in subparagraphs (A) through (C) of this paragraph.

(A) a determination regarding the Application's satisfaction of:

- (i) Pre-Application or Application Threshold Criteria;
- (ii) Underwriting Criteria;

(B) the scoring of the Application under the Application Selection Criteria; and

(C) a recommendation as to the amount of housing tax credits to be allocated to the Application.

(2) An Applicant may not appeal a decision made regarding an Application filed by another Applicant.

(3) An Applicant must file its appeal in writing with the Department not later than the seventh day after the date the Department publishes the results of any stage of the Application evaluation process identified in §49.9 of this title. In the appeal, the Applicant must specifically identify the Applicant's grounds for appeal, based on the original Application and additional documentation filed with the original Application. If the appeal relates to the amount of housing tax credits recommended to be allocated, the Department will provide the Applicant with the underwriting report upon request.

(4) The Executive Director of the Department shall respond in writing to the appeal not later than the 14th day after the date of receipt of the appeal. If the Applicant is not satisfied with the Executive Director's response to the appeal, the Applicant may appeal directly in writing to the Board, provided that an appeal filed with the Board under this subsection must be received by the Board before:

(A) the seventh day preceding the date of the Board meeting at which the relevant commitment decision is expected to be made; or

(B) the third day preceding the date of the Board meeting described by subparagraph (A) of this paragraph, if the Executive Director does not respond to the appeal before the date described by subparagraph (A) of this paragraph.

(5) Board review of an appeal under paragraph (4) of this subsection is based on the original Application and additional documentation filed with the original Application. The Board may not review any information not contained in or filed with the original Application. The decision of the Board regarding the appeal is final.

(6) The Department will post to its web site an appeal filed with the Department or Board and any other document relating to the processing of the appeal.

(c) **Amendment of Application Subsequent to Allocation by Board.**

(1) If a proposed modification would materially alter a Development approved for an allocation of a housing tax credit, the Department shall require the Applicant to file a formal, written request for an amendment to the Application.

(2) The Executive Director of the Department shall require the Department staff assigned to underwrite Applications to evaluate the amendment and provide an analysis and written recommendation to the Board. The appropriate party monitoring compliance during construction in accordance with §49.19 of this title shall also provide to the Board an analysis and written recommendation regarding the amendment.

(3) For Applications approved by the Board prior to September 1, 2001, the Executive Director will approve or deny the amendment request. For Applications approved by the Board after September 1, 2001, the Board must vote on whether to approve the amendment. The Board by vote may reject an amendment and, if appropriate, rescind a Commitment Notice or terminate the allocation of housing tax credits and reallocate the credits to other Applicants on the Waiting List if the Board determines that the modification proposed in the amendment:

(A) would materially alter the Development in a negative manner; or

(B) would have adversely affected the selection of the Application in the Application Round.

(4) Material alteration of a Development includes, but is not limited to:

(A) a significant modification of the site plan;

(B) a modification of the number of units or bedroom mix of units;

(C) a substantive modification of the scope of tenant services;

(D) a reduction of three percent or more in the square footage of the units or common areas;

(E) a significant modification of the architectural design of the Development;

(F) a modification of the residential density of the Development of at least five percent; and

(G) any other modification considered significant by the Board.

(5) In evaluating the amendment under this subsection, the Department staff shall consider whether the need for the modification proposed in the amendment was:

- (A) reasonably foreseeable by the Applicant at the time the Application was submitted; or
- (B) preventable by the Applicant.

(6) This section shall be administered in a manner that is consistent with the Code, §42.

(7) Before the 15th day preceding the date of Board action on the amendment, notice of an amendment and the recommendation of the Executive Director and monitor regarding the amendment will be posted to the Department's web site.

(d) **Housing Tax Credit and Ownership Transfers.** An Applicant may not transfer an allocation of housing tax credits or ownership of a Development supported with an allocation of housing tax credits to any Person other than an Affiliate unless the Applicant obtains the Executive Director's prior, written approval of the transfer. The Executive Director may not unreasonably withhold approval of the transfer. An Applicant seeking Executive Director approval of a transfer and the proposed transferee must provide to the Department a copy of any applicable agreement between the parties to the transfer, including any third-party agreement with the Department. An Applicant seeking Executive Director approval of a transfer must provide to the Department a list of the names of transferees and Related Parties; and detailed information describing the experience and financial capacity of transferees and related parties. The Development Owner shall certify to the Executive Director that the tenants in the Development have been notified in writing of the transfer before the 30th day preceding the date of submission of the transfer request to the Department. Not later than the fifth working day after the date the Department receives all necessary information under this section, the Department shall conduct a qualifications review of a transferee to determine the transferee's past compliance with all aspects of the Low Income Housing Tax Credit Program, LURAs; and the sufficiency of the transferee's experience with Developments supported with Housing Credit Allocations.

(e) **Withdrawals.** An Applicant may withdraw an Application prior to receiving a Commitment Notice, Determination Notice, Carryover Allocation Document or Housing Credit Allocation, or may cancel a Commitment Notice or Determination Notice by submitting to the Department a notice, as applicable, of withdrawal or cancellation, and making any required statements as to the return of any tax credits allocated to the Development at issue.

(f) **Cancellations.** The Department may cancel a Commitment Notice, Determination Notice or Carryover Allocation prior to the issuance of IRS Form 8609 with respect to a Development if:

(1) the Development Owner or any member of the Development Team, or the Development, as applicable, fails to meet any of the conditions of such Commitment Notice or Carryover Allocation or any of the undertakings and commitments made by the Development Owner in the Applications process for the Development;

(2) any statement or representation made by the Development Owner or made with respect to the Development Owner, the Development Team or the Development is untrue or misleading;

(3) an event occurs with respect to any member of the Development Team which would have made the Development's Application ineligible for funding pursuant to §49.5 of this title if such event had occurred prior to issuance of the Commitment Notice or Carryover Allocation; or

(4) the Development Owner, any member of the Development Team, or the Development, as applicable, fails to comply with these Rules or the procedures or requirements of the Department.

§49.19. Compliance Monitoring and Material Non-Compliance.

(a) The Code, §42(m)(1)(B)(iii), requires the Department as the housing credit agency to include in its QAP a procedure that the Department will follow in monitoring Developments for compliance with the provisions of the Code, §42 and in notifying the IRS of any noncompliance of which the Department becomes aware. Such procedure is set out in this QAP and in the Owner's Compliance Manual prepared by the Department's Compliance Division, as amended from time to time. Such procedure only addresses forms and records that may be required by the Department to enable the Department to monitor a Development for violations of the Code and the LURA and to notify the IRS of any such non-compliance. This procedure does not address forms and other records that may be required of Development Owners by the IRS more generally, whether for purposes of filing annual returns or supporting Development Owner tax positions during an IRS audit.

(b) The Department, through the division with responsibility for compliance matters, shall monitor for compliance with all applicable requirements the entire construction or rehabilitation phase associated with any Development under this title. The Department will monitor under this requirement by requiring a copy of reports from all construction inspections performed for the lender and/or syndicator for the Development. If necessary, the Department may obtain a Third-Party inspection report for purposes of monitoring. The Applicant must

provide the Department with copies of all inspections made throughout the construction of the Development within fifteen days of the date the inspection occurred. The Department, or any third-party inspector hired by the Department, shall be provided, upon request, any construction documents, plans or specifications for the Development to perform these inspections. The monitoring level for each Development must be based on the amount of risk associated with the Development. The Department shall use the division responsible for credit underwriting matters and the division responsible for compliance matters to determine the amount of risk associated with each Development. After completion of a Development's construction phase, the Department shall periodically review the performance of the Development to confirm the accuracy of the Department's initial compliance evaluation during the construction phase. Developments having financing from TX-USDA-RHS will be exempt from these inspections, provided that the Applicant provides the Department with copies of all inspections made by TX-USDA-RHS throughout the construction of the Development within fifteen days of the date the inspection occurred.

(c) The Department will monitor compliance with all covenants made by the Development Owner in the Application and in the LURA, whether required by the Code, Treasury Regulations or other rulings of the IRS, or undertaken by the Development Owner in response to Department requirements or criteria.

(d) The Department may contract with an independent third party to monitor a Development during its construction or rehabilitation and during its operation for compliance with any conditions imposed by the Department in connection with the allocation of housing tax credits to the Development and appropriate state and federal laws, as required by other state law or by the Board. The Department may assign Department staff other than housing tax credit division staff to perform the relevant monitoring functions required by this section in the construction or rehabilitation phase of a Development.

(e) The Department shall create an easily accessible database that contains all Development compliance information developed under this section.

(f) The Development Owner must keep records for each qualified low income building in the Development, showing on a monthly basis (with respect to the first year of a building's Credit Period and on an annual basis, thereafter):

(1) the total number of residential rental Units in the building (including the number of bedrooms and the size in square feet of each residential rental Unit);

(2) the percentage of residential rental Units in the building that are low income Units;

(3) the rent charged for each residential rental Unit in the building including, with respect to low income Units, documentation to support the utility allowance applicable to such Unit;

(4) the number of occupants in each low income Unit;

(5) the low income Unit vacancies in the building and information that shows when, and to whom, all available Units were rented;

(6) the annual income certification of each tenant of a low income Unit, in the form designated by the Department in the Compliance Manual, as may be modified from time to time;

(7) documentation to support each low income tenant's income certification, consistent with the determination of annual income and verification procedures under Section 8 of the United States Housing Act of 1937 ("Section 8"), notwithstanding any rules to the contrary for the determination of gross income for federal income tax purposes. In the case of a tenant receiving housing assistance payments under Section 8, the documentation requirement is satisfied if the public housing authority provides a statement to the Development Owner declaring that the tenant's income does not exceed the applicable income limit under the Code, §42(g) as described in the Compliance Manual;

(8) the Eligible Basis and Qualified Basis of the building at the end of the first year of the Credit Period;

(9) the character and use of the nonresidential portion of the building included in the building's Eligible Basis under the Code, §42(d), (e.g. whether tenant facilities are available on a comparable basis to all tenants; whether any fee is charged for use of the facilities; whether facilities are reasonably required by the Development); and

(10) any additional information as required by the Department.

(g) The Development Owner will deliver to the Department no later than the last day in April each year, the current audited financial statements, in form and content satisfactory to the Department, itemizing the income and expenses of the Development for the prior year.

(h) Specifically, to evidence compliance with the requirements of the Code, §42(h)(6)(B)(iv) which requires that the LURA prohibit Development Owners of all tax credit Developments placed in service after August 10, 1993 from refusing to lease to persons holding Section 8 vouchers or certificates because of their status as

holders of such Section 8 voucher or certificate. Development Owners must comply with Department rules under 10 TAC §1.14 of this title.

(1) A Development funded or administered by the Department is prohibited from:

(A) excluding an individual or family from admission to the Development because the individual or family participates in the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S. C. Section 143F);

(B) using a financial or minimum income standard for an individual or family participating in the voucher program that requires the individual or family to have a monthly income of more than 2.5 times the individual or family's share of the total monthly rent payable to the Development. A Development Owner must maintain a written management plan that is available for review upon request. Such management plan must clearly state the following objectives:

(i) prospective applicants who hold Section 8 vouchers or certificates are welcome to apply and will be provided the same consideration for occupancy as any other applicant;

(ii) any minimum income requirements for Section 8 voucher and certificate holders will only be applied to the portion of the rent the prospective tenant would pay, provided, however, that if Section 8 pays 100% of the rent for the Unit, the Development Owner may establish other reasonable minimum income requirements to ensure that the tenant has the financial resources to meet daily living expenses. Minimum income requirements for Section 8 voucher and certificate holders will not exceed 2.5 times the portion of rent the tenant pays; and

(iii) all other screening criteria, including employment policies or procedures and other leasing criteria (such as rental history, credit history, criminal history, etc.) must be applied to applicants uniformly and in a manner consistent with the Texas and federal Fair Housing Acts and with Department and Code requirements;

(2) In addition the following is required for Developments funded or administered by the Department:

(A) post Fair Housing logos and the Fair Housing poster in the leasing office;

(B) approve and distribute a written Affirmative Marketing Plan to the property management and on-site staff; and

(C) communicate annually during the first quarter of each year in writing with the administrator of each Section 8 program which has jurisdiction within the geographic area where the Development is located. Such communication will include information on the Unit characteristics and rents and will advise the administrating agency that the property accepts Section 8 vouchers and certificates and will treat referrals in a fair and equal manner. Copies of such correspondence must be available during on-site reviews conducted by the Department. A prospective tenant participating in the voucher program shall have the right to report to the administrator of the Section 8 program that provided the certificate or voucher an exclusion from admission to a Development based on a financial or minimum income standard requiring the tenant to have a monthly income of more than 2.5 times the tenant or tenant's family share of the total monthly rent payable to the Development Owner. The administrator shall promptly report such exclusion to the Department.

(3) A Housing Sponsor that fails to comply with the requirements and procedures of this §49.19(h) of this title is subject to the following sanctions:

(A) Failure to lease to a prospective tenant due to the applicant's status as a recipient of a federal rental assistance voucher or certificate will result in a material non-compliance score as more fully described in subsection (s) of this section.

(B) A complaint of exclusion from admittance as described in subsection (h)(5) of this section that has been verified by the Department shall result in a non-compliance score as more fully described in subsection (s) of this section for a period of one year from the date of the Department's verification of the complaint.

(i) Record retention provision. The Development Owner is required to retain the records described in subsection (f) of this section for at least six years after the due date (with extensions) for filing the federal income tax return for that year; however, the records for the first year of the Credit Period must be retained for at least six years beyond the due date (with extensions) for filing the federal income tax return for the last year of the Compliance Period of the building.

(j) Certification and Review.

(1) On or before February 1st of each year, the Department will send each Development Owner of a completed Development an Owner's Certification of Program Compliance (form provided by the Department) to be completed by the Owner and returned to the Department on or before the first day of March of each year in the Compliance Period. Any Development for which the certification is not received by the Department, is received past due, or is incomplete, improperly completed or not signed by the Development Owner, will be considered not in compliance with the provisions of §42 of the Code and reported to the IRS on Form 8823, Low Income Housing Credit Agencies Report of Non Compliance. The Owner Certification of Program Compliance shall

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cover the preceding calendar year and shall include at a minimum the following statements of the Development Owner:

- (A) the Development met the minimum set-aside test which was applicable to the Development;
- (B) there was no change in the Applicable Fraction of any building in the Development, or if there was such a change, the Applicable Fraction to be reported to the IRS for each building in the Development for the certification year;
- (C) the Development Owner has received an annual income certification from each low income resident and documentation to support that certification;
- (D) each low income Unit in the Development was rent-restricted under the Code, §42(g)(2);
- (E) all low income Units in the Development are and have been for use by the general public and used on a non-transient basis (except for transitional housing for the homeless provided under the Code, §42(l)(3)(B)(iii) and (iv));
- (F) No finding of discrimination under the Fair Housing Act, 42 U.S.C. 3601-3619, has occurred for this Development. A finding of discrimination includes an adverse final decision by the Secretary of HUD, 24 CFR 180.680, an adverse final decision by a substantially equivalent state or local fair housing agency, 42 U.S.C. 3616a(a)(1), or an adverse judgment from a federal court;
- (G) each building in the Development is and has been suitable for occupancy, taking into account local health, safety, and building codes (or other habitability standards), and the state or local government unit responsible for making building code inspections did not issue a report of a violation for any building or low income Unit in the Development. If a violation report or notice was issued by the governmental unit, the Development Owner must attach a copy of the violation report or notice. In addition, the Development Owner must state whether the violation has been corrected;
- (H) either there was no change in the Eligible Basis (as defined in the Code, §42(d)) of any building in the Development, or that there has been a change, and the nature of the change (e.g., a common area has become commercial space, a fee is now charged for a tenant facility formerly provided without charge, or the Development Owner has received federal subsidies with respect to the Development which had not been previously received or disclosed to the Department in writing);
- (I) all tenant facilities included in the Eligible Basis under the Code, §42(d), of any building in the Development, such as swimming pools, other recreational facilities, washer/dryer hook ups, appliances and parking areas, were provided on a comparable basis without charge to all tenants in the building;
- (J) if a low income Unit in the Development became vacant during the year, reasonable attempts were, or are being, made to rent that Unit or the next available Unit of comparable or smaller size to tenants having a qualifying income, and such Unit or the next available Unit of comparable or smaller size was actually rented to tenants having a qualifying income, before any other Units in the Development were, or will be, rented to tenants not having a qualifying income;
- (K) if the income of tenants of a low income Unit in the Development increased above the limit allowed in the Code, §42(g)(2)(D)(ii), the next available Unit of comparable or smaller size in that building was, or will be, rented to residents having a qualifying income;
- (L) a LURA including an Extended Low Income Housing Commitment as described in the Code, §42(h)(6), was in effect for buildings subject to section 7108(c)(1) of the Omnibus Budget Reconciliation Act of 1989, 103 Stat. 2106, 2308-2311, including the requirement under the Code, §42(h)(6)(B)(iv) that a Development Owner cannot refuse to lease a Unit in the Development to an applicant because the applicant holds a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437f (for buildings subject to section 1314c(b)(4) of the Omnibus Budget Reconciliation Act of 1993, 107 Stat. 312, 438-439;
- (M) no change in the ownership of a Development has occurred during the reporting period;
- (N) the Development Owner has not been notified by IRS that the Development is no longer "a qualified low income housing Development" within the meaning of the Code, §42;
- (O) the Development met all terms and conditions which were recorded in the LURA, or if no LURA was required to be recorded, the Development met all representations of the Development Owner in the Application for credits;
- (P) if the Development Owner received its Housing Credit Allocation from the portion of the state ceiling set aside for Developments involving Qualified Nonprofit Organizations under the Code, §42(h)(5), a Qualified Nonprofit Organization owned an interest in and materially participated in the operation of the Development within the meaning of the Code, §469(h); and
- (Q) no low income Units in the Development were occupied by households in which all members were Students.

(2) Review.

(A) The Department staff will review each Owner's Certification of Program Compliance for compliance with the requirements of the Code, §42.

(B) The Department will perform on-site inspections of all buildings in each low income Development by the end of the second calendar year following the year the last building in the Development is placed in service and, for at least 20% of the low income Units in each Development, inspect the Units and review the low income certifications, the documentation the Development Owner has received to support the certifications, the rent records for each low income tenant in those Units, and any additional information that the Department deems necessary.

(C) At least once every three years, the Department will conduct on-site inspections of all buildings in the Development, and for at least 20% of the Development's low income Units, inspect the Units and review the low income certifications, the documentation supporting the certifications, and the rent records for the tenants in those Units.

(D) The Department may, at the time and in the form designated by the Department, require the Development Owners to submit for compliance review, information on tenant income and rent for each low income Unit, and may require a Development Owner to submit for compliance review copies of the tenant files, including copies of the income certification, the documentation the Development Owner has received to support that certification and the rent record for any low income tenant.

(E) The Department will randomly select which low income Units and tenant records are to be inspected and reviewed by the Department. The review of the tenant records may be undertaken wherever the Development Owner maintains or stores the records. Units and tenant records to be inspected and reviewed will be selected in a manner that will not give Development Owners advance notice that a particular Unit and tenant records for a particular year will or will not be inspected or reviewed. However, the Department will give reasonable notice to the Development Owner that an on-site inspection or a tenant record review will occur, so that the Development Owner may notify tenants of the inspection or assemble tenant records for review.

(3) Exception. The Department may, at its discretion, enter into a Memorandum of Understanding with the TX-USDA-RHS, whereby the TX-USDA-RHS agrees to provide to the Department information concerning the income and rent of the tenants in buildings financed by the TX-USDA-RHS under its §515 program. Owners of such buildings may be excepted from the review procedures of subparagraph (B) or (C) of paragraph (2) of this subsection or both; however, if the information provided by TX-USDA-RHS is not sufficient for the Department to make a determination that the income limitation and rent restrictions of the Code, §42(g)(1) and (2), are met, the Development Owner must provide the Department with additional information. TX-USDA-RHS Developments satisfy the definition of Qualified Elderly Development if they meet the definition for elderly used by TX-USDA-RHS, which includes persons with disabilities.

(k) Inspection provision. The Department retains the right to perform an on site inspection of any low income Development including all books and records pertaining thereto through either the end of the Compliance Period or the end of the period covered by any Extended Low Income Housing Commitment, whichever is later. An inspection under this subsection may be in addition to any review under subsection (j)(2) of this section.

(l) Inspection Standard. For the on-site inspections of buildings and low income Units, the Department shall review any local health, safety, or building code violations reported to, or notices of such violations retained by, the Development Owner, under subsection (j)(1)(G) of this section, and determine whether the Units satisfy local health, safety, and building codes or the uniform physical condition standards for public housing established by HUD (24 CFR 5.703). The HUD physical condition standards do not supersede or preempt local health, safety and building codes. Developments must continue to satisfy these codes and if the Department becomes aware of any violation of these codes, the violations must be reported to the IRS.

(m) The Department retains the right to require the Owner to submit tenant data in the electronic format as developed by the Department. The Department will provide general instruction regarding the electronic transfer of data.

(n) Notices to Owner. The Department will provide prompt written notice to the Development Owner if the Department does not receive the certification described in subsection (j)(1) of this section or discovers through audit, inspection, review or any other manner, that the Development is not in compliance with the provisions of the Code, §42 or the LURA. The notice will specify a correction period which will not exceed 90 days from the date of notice to the Owner, during which the Development Owner may respond to the Department's findings, bring the Development into compliance, or supply any missing certifications. The Department may extend the correction period for up to six months from the date of notice to the Owner if it determines there is good cause for granting an extension. If any communication to the Development Owner under this section is returned to the Department as unclaimed or undeliverable, the Development may be considered not in compliance without further notice to the Development Owner.

(o) Notice to the IRS.

(1) Regardless of whether the noncompliance is corrected, the Department is required to file IRS Form 8823 with the IRS. IRS Form 8823 will be filed not later than 45 days after the end of the correction period specified in the Notice to Owner (including any extensions permitted by the Department), but will not be filed before the end of the correction period. The Department will explain on IRS Form 8823 the nature of the noncompliance and will indicate whether the Development Owner has corrected the non-compliance or failure to certify.

(2) If a particular instance of non-compliance is not corrected within three years after the end of the permitted correction period, the Department is not required to report any subsequent correction to the IRS.

(3) The Department will retain records of noncompliance or failure to certify for six years beyond the Department's filing of the respective IRS Form 8823. In all other cases, the Department will retain the certification and records described in §49.19 of this title for three years from the end of the calendar year the Department receives the certifications and records.

(p) Notices to the Department. A Development Owner must notify the division responsible for compliance within the Department in writing of the events listed in paragraphs (1) through (3) of this subsection.

(1) prior to any sale, transfer, exchange, or renaming of the Development or any portion of the Development. For Rural Developments that are federally assisted or purchased from HUD, the Department shall not authorize the sale of any portion of the Development;

(2) any change of address to which subsequent notices or communications shall be sent; or

(3) within thirty days of the placement in service of each building, the Department must be provided the in service date of each building.

(q) Liability. Compliance with the requirements of the Code, §42 is the sole responsibility of the Development Owner of the building for which the credit is allowable. By monitoring for compliance, the Department in no way assumes any liability whatsoever for any action or failure to act by the Development Owner including the Development Owner's noncompliance with the Code, §42.

(r) These provisions apply to all buildings for which a low income housing credit is, or has been, allowable at any time. The Department is not required to monitor whether a building or Development was in compliance with the requirements of the Code, §42, prior to January 1, 1992. However, if the Department becomes aware of noncompliance that occurred prior to January 1, 1992, the Department is required to notify the IRS in a manner consistent with subsection (j) of this section.

(s) Material Non-Compliance. In accordance with §49.5(b)(6) and (7) of this title, the Department will disqualify an Application for funding if the Applicant, the Development Owner, or the General Contractor, or any Affiliate of the Applicant, the Development Owner, or the General Contractor that is active in the ownership or Control of one or more other low income rental housing properties located in or outside the State of Texas is determined by the Department to be in Material Non-Compliance on the date the Application Round closes. The Department will classify a property as being in Material Non-Compliance when such property has a Non-Compliance score that is equal to or exceeds 30 points in accordance with the methodology and point system set forth in this subsection, or if in accordance with §49.5(b)(7) of this title, the Department makes a determination that the non-compliance reported would equal or exceed a non-compliance score of 30 points if measured in accordance with the methodology and point system set forth in this subsection.

(1) Each property that has received an allocation from the Department will be scored according to the type and number of non-compliance events as it relates to the Low Income Housing Tax Credit Program or other Department programs. All Developments regardless of status that have received an allocation are scored even if the project no longer actively participates in the program.

(2) Uncorrected non-compliance will carry the maximum number of points until the non-compliance event has been reported corrected by the Department. Once reported corrected by the Department the score will reduce to the "corrected value" in paragraph (4) of this subsection. Corrected non-compliance will no longer be included in the Development score three years after the date the non-compliance was reported corrected by the Department. Non-compliance events that occurred and were identified by the Department through the issuance of the IRS form 8823 prior to January 1, 1998 are assigned corrected point values to each non-compliance event. The score for these events will no longer be included in the Development's score three years after the date the form 8823 was executed. For Applicants under this QAP, a non-compliance report will be run by the Department's Compliance Division on the date the Application Round closes. Any corrective action documentation affecting this compliance status score must be received by the Department no later than February 1, 2003.

(3) Events of non-compliance are categorized as either "development events" or "unit/building events". Development events of non-compliance affect all the buildings in the property. However, the property will

receive only one score for the event rather than a score for each building. Other types of non-compliance are identified individually by unit. This type of non-compliance will receive the appropriate score for each building cited with an event. The building scores accumulate towards the total score of the Development.

(4) Each type of non-compliance is assigned a point value. The point value for non-compliance is reduced upon correction of the non-compliance. The scoring point system and values are as described in subparagraphs (A) and (B) of this paragraph. The point system weighs certain types of non-compliance more heavily than others; therefore certain non-compliance events carry a sufficient number of points to automatically place the property in Material Non-Compliance. However other types of non-compliance by themselves do not warrant the classification of Material Non-Compliance. Multiple occurrences of these types of non-compliance events may produce enough points to cause the property to be in Material Non-Compliance. For purposes of these scores, the terms "uncorrected" and "corrected" refer to actions taken subsequent to notification of non-compliance by the Department.

(A) Development Non-Compliance items are identified in clauses (i) through (xx) of this subparagraph.

(i) Major property condition violations. As determined by the Department the project displays major violations of health, safety and building code or the property does not satisfy the uniform physical condition standards. Uncorrected is 30 points. Corrected is 20 points.

(ii) Owner refused to lease to a holder of rental assistance certificate/voucher because of the status of the prospective tenant as such a holder. Uncorrected is 30 points. Corrected is 10 points.

(iii) Development not available to general public. Determination of violation under the Fair Housing Act. Uncorrected is 30 points. Corrected is 10 points.

(iv) Development is out of compliance and never expected to comply. Uncorrected is 30 points.

(v) Failure to meet minimum low-income occupancy levels. Development failed to meet required minimum low-income occupancy levels of 20/50 (20% of the units occupied by tenants with household incomes of less than or equal to 50% of Area Median Gross Income) or 40/60. Uncorrected is 20 points. Corrected is 10 points.

(vi) No evidence or failure to certify to non-profit material participation for Owner having received an allocation from the Nonprofit Set-Aside. Uncorrected is 10 points. Corrected is 3 points.

(vii) Failure to meet additional State required rent and occupancy restrictions. Development has failed to meet state restrictions, if any, that exist in addition to the federal requirements. Uncorrected is 10 points. Corrected is 3 points.

(viii) Failure to provide required supportive services as promised at Application. Uncorrected is 10 points. Corrected is 3 points.

(ix) Failure to provide housing to the elderly as promised at Application. Uncorrected is 10 points. Corrected is 3 points.

(x) Failure to provide special needs housing. Development has failed to provide housing for tenants with special needs as promised at Application. Uncorrected is 10 points. Corrected is 3 points.

(xi) Owner failed to provide required annual notification to local administering agency for the Section 8 program. Uncorrected is 5 points. Corrected is 2 points.

(xii) Changes in Eligible Basis. Changes occur when common areas become commercial; fees are charged for facilities, etc. Uncorrected is 10 points. Corrected is 3 point.

(xiii) Owner failed to post Fair Housing Logo and/or poster in leasing offices. Uncorrected is 3 points. Corrected is 1 point.

(xiv) LURA not in effect. The LURA was not executed within the required time period. Uncorrected is 10 points. Corrected is 3 point.

(xv) Owner failed to pay fees or allow on-site monitoring review. Uncorrected is 3 points. Corrected is 1 point.

(xvi) Failure to submit annual Owner Certification of Program Compliance or other annual, monthly, or quarterly reports. Uncorrected is 10 points. Corrected is 3 point.

(xvii) Owner failed to make available or maintain management plan with required language. Uncorrected is 3 points. Corrected is 1 point.

(xviii) Owner failed to approve and distribute Affirmative Marketing Plan. Uncorrected is 3 points. Corrected is 1 points.

(xix) Pattern of minor property condition violations. Development displays a pattern of property violations. However those violations do not impair essential services and safeguards for tenants. Uncorrected is 5 points. Corrected is 2 point.

(xx) Failure to comply with requirements limiting minimum income standards for Section 8 residents. Complaints verified by the Department regarding violations of the income standard which cause

exclusion from admission of Section 8 resident(s) results in a violation. Uncorrected score 10 points. Corrected 3 point.

(B) Unit Non-Compliance items are identified in clauses (i) through (x) of this subparagraph.

(i) Unit not leased to Low Income Household. Development has units that are leased to households whose income was above the income limit upon initial occupancy. Uncorrected is 3 points. Corrected is 1 point.

(ii) Low-income units occupied by nonqualified full-time students. Uncorrected is 3 points. Corrected is 1 point.

(iii) Low income units used on transient basis. Uncorrected is 3 points. Corrected is 1 point.

(iv) Household Income increased above the re-certification limit and available Unit was rented to market tenant. Uncorrected is 3 points. Corrected is 1 point.

(v) Gross rent exceeds tax credit rent limits. Uncorrected is 3 points. Corrected is 1 point.

(vi) Utility allowance not calculated properly. Uncorrected is 3 points. Corrected is 1 point.

(vii) Failure to maintain or provide tenant income certification and documentation. Uncorrected is 3 points. Corrected is 1 point.

(viii) Casualty loss. Units not available for occupancy due to natural disaster or hazard due to no fault of the Owner. This carries no point value.

(ix) When a low income Unit became vacant, owner failed to lease to a low income household before any units were rented to tenants not having a qualifying income. Uncorrected 3 points. Corrected 1 point.

(x) Unit not available for rent. Unit is used for non-residential purposes excluding unavailable Units due to casualty and manager-occupied Units. Uncorrected is 3 points. Corrected is 1 point.

(t) Utility Allowances utilized during Affordability Period. The Department will monitor to determine whether rents comply with the published tax credit rent limits using the utility allowances established by the local housing authority. If there is more than one entity (Section 8 administrator, public housing authority) responsible for setting the utility allowance(s) in the area of the Development location, then the Utility Allowance selected must be the one which most closely reflects the actual utility costs in that Development area. In this case, documentation from the local utility provider supporting the selection must be provided.

§49.20. Department Records, Application Log, IRS Filings.

(a) **Department Records.** At all times during each calendar year the Department shall maintain a record of the following:

(1) the cumulative amount of the State Housing Credit Ceiling that has been committed pursuant to Commitment Notices during such calendar year;

(2) the cumulative amount of the State Housing Credit Ceiling that has been committed pursuant to Carryover Allocation Documents during such calendar year;

(3) the cumulative amount of Housing Credit Allocations made during such calendar year; and

(4) the remaining unused portion of the State Housing Credit Ceiling for such calendar year.

(b) **Application Log.** The Department shall maintain for each Application an Application Log that tracks the Application from the date of its submission. The Application Log will contain, at a minimum, the information identified in paragraphs (1) through (9) of this subsection.

(1) the names of the Applicant and all Persons with an ownership interest in the Development Owner, the owner contact name and phone number, and full contact information for all members of the Development Team;

(2) the name, physical location, and address of the Development, including the relevant Uniform State Service Region of the state;

(3) the number of Units and the amount of housing tax credits requested for allocation by the Department to the Applicant;

(4) any Set-Aside category under which the Application is filed;

(5) the requested and awarded score of the Application in each scoring category adopted by the Department under the Qualified Allocation Plan;

(6) any decision made by the Department or Board regarding the Application, including the Department's decision regarding whether to underwrite the Application and the Board's decision regarding whether to allocate housing tax credits to the Development;

(7) the names of individuals making the decisions described by paragraph (6) of this subsection, including the names of Department staff scoring and underwriting the Application, to be recorded next to the description of the applicable decision;

(8) the amount of housing tax credits allocated to the Development; and

(9) a dated record and summary of any contact between the Department staff, the Board, and the Applicant or any Related Parties.

(c) **IRS Filings.** The Department shall mail to the Internal Revenue Service, not later than the 28th day of the second calendar month after the close of each calendar year during which the Department makes Housing Credit Allocations, the original of each completed (as to Part I) IRS Form 8609, a copy of which was mailed or delivered by the Department to a Development Owner during such calendar year, along with a single completed IRS Form 8610, Annual Low Income Housing Credit Agencies Report. When a Carryover Allocation is made by the Department, a copy of IRS Form 8609 will be mailed or delivered to the Development Owner by the Department in the year in which the building(s) is placed in service, and thereafter the original will be mailed to the Internal Revenue Service in the time sequence in this subsection. The original of the Carryover Allocation Document will be filed by the Department with IRS Form 8610 for the year in which the allocation is made. The original of all executed Agreement and Election Statements shall be filed by the Department with the Department's IRS Form 8610 for the year a Housing Credit Allocation is made as provided in this section. The Department shall be authorized to vary from the requirements of this section to the extent required to adapt to changes in IRS requirements.

§49.21. Program Fees, Refunds, Public Information Requests, Amendments of Fees and Notification of Fees, Extensions.

(a) **Timely Payment of Fees.** All fees must be paid as stated in this section. Any fees, as further described in this section, that are not timely paid will cause an Applicant to be ineligible to apply for tax credits and additional tax credits and ineligible to submit extension requests, ownership changes and Application amendments. Payments made by check, for which insufficient funds are available, will cause the Application, commitment or allocation to be terminated.

(b) **Pre-Application Fee.** Each Applicant that submits a Pre-Application shall submit to the Department, along with such Pre-Application, a non refundable Pre-Application fee, in the amount of \$5 per Unit. Units for the calculation of the Pre-Application Fee include all Units within the Development, including tax credit, market rate and owner-occupied Units. Pre-Applications without the specified Pre-Application Fee in the form of a check will not be accepted. Pre-Applications in which a CHDO or Qualified Nonprofit Organization intends to serve as the managing General Partner of the Development Owner, or Control the managing General Partner of the Development Owner, will receive a discount of 10% off the calculated Pre-Application fee.

(c) **Application Fee.** Each Applicant that submits an Application shall submit to the Department, along with such Application, an Application fee. For Applicants having submitted a Pre-Application which met Pre-Application Threshold and for which a Pre-Application fee was paid, the Application fee will be \$15 per Unit. For Applicants not having submitted a Pre-Application, the Application fee will be \$20 per Unit. Units for the calculation of the Application Fee include all Units within the Development, including tax credit, market rate and owner-occupied Units. Applications without the specified Application Fee in the form of a check will not be accepted. Applications in which a CHDO or Qualified Nonprofit Organization intends to serve as the managing General Partner of the Development Owner, or Control the managing General Partner of the Development Owner, will receive a discount of 10% off the calculated Application fee.

(d) **Refunds of Pre-Application or Application Fees.** The Department shall refund the balance of any fees collected for a Pre-Application or Application that is withdrawn by the Applicant or that is not fully processed by the Department. The amount of refund on Applications not fully processed by the Department will be commensurate with the level of review completed. Intake and data entry will constitute 30% of the review, the site visit will constitute 45% of the review, and Threshold and Selection review will constitute 25% of the review. The Department must provide the refund to the Applicant not later than the 30th day after the date the last official action is taken with respect to the Application.

(e) **Third Party Underwriting Fee.** Applicants will be notified in writing prior to the evaluation of a Development by an independent third party underwriter in accordance with §49.9(c)(4) of this title if such a review is required. The fee must be received by the Department prior to the engagement of the underwriter. The fees paid by the Development Owner to the Department for the third party underwriting will be credited against the commitment fee established in subsection (f) of this section, in the event that a Commitment Notice or Determination Notice is issued by the Department to the Development Owner.

(f) **Commitment or Determination Notice Fee.** Each Development Owner that receives a Commitment Notice or Determination Notice shall submit to the Department, not later than the expiration date on the commitment notice, a non-refundable commitment fee equal to 4% of the annual Housing Credit Allocation amount. The commitment fee shall be paid by check.

(g) **Compliance Monitoring Fee.** Upon the Development being placed in service, the Development Owner will pay a compliance monitoring fee in the form of a check equal to \$25 per tax credit Unit per year or \$100, whichever is greater. Payment of the first year's compliance monitoring fee must be received by the Department prior to the release of the IRS Form 8609 on the Development. Subsequent anniversary dates on which compliance monitoring fee payments are due shall be determined by the date the Development was placed in service.

(h) **Building Inspection Fee.** The Building Inspection Fee must be paid at the time the Commitment Fee is paid. The Building Inspection Fee for all Developments is \$500.

(i) **Public Information Requests.** Public information requests are processed by the Department in accordance with the provisions of the Government Code, Chapter 552. The Texas Building and Procurement Commission (formerly General Services Commission) determines the cost of copying, and other costs of production.

(j) **Periodic Adjustment of Fees by the Department and Notification of Fees.** All fees charged by the Department in the administration of the tax credit program will be revised by the Department from time to time as necessary to ensure that such fees compensate the Department for its administrative costs and expenses. The Department shall publish not later than July 1 of each year a schedule of Application fees that specifies the amount to be charged at each stage of the Application process. Unless otherwise determined by the Department, all revised fees shall apply to all Applications in process and all Developments in operation at the time of such revisions.

(k) **Extension Requests.** All extension requests relating to the Commitment Notice, Carryover, Closing of Construction Loan, Substantial Construction Commencement, Placed in Service or Cost Certification requirements shall be submitted to the Department in writing and be accompanied by a non-refundable extension fee in the form of a check in the amount of \$2,500. Such requests must be submitted to the Department at least 30 days prior to the date for which an extension is being requested. Extension requests and fees will not be accepted any later than this deadline date. The extension request shall specify a requested extension date and the reason why such an extension is required. The Department, in its sole discretion, may consider and grant such extension requests for all items except for the Closing of Construction Loan and Substantial Construction Commencement. The Board may grant extensions, for the Closing of Construction Loan and Substantial Construction Commencement. The Board may waive related fees.

§49.22. Manner and Place of Filing All Required Documentation.

(a) All Applications, letters, documents, or other papers filed with the Department will be received only between the hours of 8:00 a.m. and 5:00 p.m. on any day which is not a Saturday, Sunday or a holiday established by law for state employees.

(b) All notices, information, correspondence and other communications under this title shall be deemed to be duly given if delivered or sent and effective in accordance with this subsection. Such correspondence must reference that the subject matter is pursuant to the Tax Credit Program and must be addressed to the Low Income Housing Tax Credit Program, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, TX 78711-3941 or for hand delivery or courier to 507 Sabine, Suite 400, Austin, Texas 78701. Every such correspondence required or contemplated by this title to be given, delivered or sent by any party may be delivered in person or may be sent by courier, telecopy, express mail, telex, telegraph or postage prepaid certified or registered air mail (or its equivalent under the laws of the country where mailed), addressed to the party for whom it is intended, at the address specified in this subsection. Notice by courier, express mail, certified mail, or registered mail will be effective on the date it is officially recorded as delivered by return receipt or equivalent and in the absence of such record of delivery it will be presumed to have been delivered by the fifth business day after it was deposited, first-class postage prepaid, in the United States first class mail. Notice by telex or telegraph will be deemed given at the time it is recorded by the carrier in the ordinary course of business as having been delivered, but in any event not later than one business day after dispatch. Notice not given in writing will be effective only if acknowledged in writing by a duly authorized officer of the Department.

§49.23. Waiver and Amendment of Rules.

(a) The Board, in its discretion, may waive any one or more of these Rules in cases in which the Board finds that compelling circumstances exist outside the control of the Applicant or Development Owner.

(b) The Department may amend this chapter and the Rules contained herein at any time in accordance with the Government Code, Chapter 2001, as may be amended from time to time.

§49.24. Deadlines for Allocation of Low Income Housing Tax Credits.

(a) Not later than September 30 of each year, the Department shall prepare and submit to the Board for adoption the draft Qualified Allocation Plan required by federal law for use by the Department in setting criteria and priorities for the allocation of tax credits under the Housing Tax Credit program.

(b) The Board shall adopt and submit to the Governor the Qualified Allocation Plan not later than November 15 of each year.

(c) The Governor shall approve, reject, or modify and approve the Qualified Allocation Plan not later than December 1 of each year.

(d) An Applicant for a Housing Tax Credit to be issued a Commitment Notice during the Application Round in a calendar year must submit an Application to the Department not later than March 1.

(e) The Board shall review the recommendations of Department staff regarding Applications and shall issue a list of approved Applications each year in accordance with the Qualified Allocation Plan not later than June 30.

(f) The Board shall issue final Commitment Notices for allocations of housing tax credits each year in accordance with the Qualified Allocation Plan not later than July 31.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

MEMORANDUM

TO: TDHCA Board Members
FROM: Brooke Boston, LIHTC Co-Manager
THROUGH: Edwina Carrington, Executive Director
SUBJECT: **2003 LIHTC Application Submission Procedures Manual**
DATE: November 7, 2002

In accordance with §2306.67022 of Texas Government Code, the board is required to adopt a Qualified Allocation Plan (QAP) and corresponding manual annually. The QAP is submitted under cover of a separate memorandum. The Application Submission Procedures Manual (ASPM) is the manual that is generated annually and provided to applicants to provide them the necessary information to actually package their application in accordance with our requirements.

Please note that some portions of the ASPM are direct excerpts from the QAP which are pulled into this document to facilitate the applicants' understanding of the application requirements. Any changes made by the Board to the QAP will be correspondingly made to the ASPM to ensure consistency.

Staff requests approval of the attached ASPM. Thank you.



Texas Department of Housing and Community Affairs

P.O. Box 13941, Austin, TX 78711-3941 Phone: 512.475.3340 Fax: 512.475.0764

2003 LIHTC APPLICATION SUBMISSION PROCEDURES MANUAL (ASPM)

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APPLICATION SUBMISSION PROCEDURES MANUAL

The Texas Department of Housing and Community Affairs' (Department) Low Income Housing Tax Credit Program Application Submission Procedures Manual (ASPM) sets forth the basic information needed for filing a Pre-Application or Application for low income housing tax credits pursuant to §§49.8 and 49.9 of the Qualified Allocation Plan and Rules (QAP). All portions of the ASPM must be followed when filing a Pre-Application or an Application for low income housing tax credits. This document is meant to serve only as a brief complementary guide on how to put the Application together. However, it is **essential** that the Applicant read and understand the QAP prior to submitting an Application, as the QAP is indeed the rule that governs the LIHTC Program.

PRE-APPLICATION AND APPLICATION SUBMISSION

A Pre-Application for a Housing Credit Allocation from the State Housing Credit Ceiling may be filed at any time during the Pre-Application Acceptance Period. An Application for a Housing Credit Allocation from the State Housing Credit Ceiling may be filed at any time during the Application Acceptance Period. For the 2003 Application Round the dates are:

1. Wednesday, December 4, 2002 Pre-Application **and** Application Acceptance Period Opening Date
2. Friday, January 10, 2003 Close of Pre-Application Acceptance Period
3. Friday, February 21, 2003 Deadline for Submitting Required Pre-Certification Documents
4. Friday, February 28, 2003 Close of Application Acceptance Period

Applications submitted after 5:00 P.M. on the last day of the Acceptance Period(s) **will not be accepted**. The deadline is **strictly** adhered to; therefore the Department strongly encourages you to consider traffic and travel delays when planning your submission.

FORMAT FOR SUBMITTING THE PRE-APPLICATION

A complete Pre-Application for each proposed development must be submitted as described in this section. Incomplete Pre-Applications or improperly bound Pre-Applications **will not be accepted**. Pre-Applications must be presented in the order provided below.

The Applicant should ensure that all sets of documentation are clearly labeled with the:

1. Development Name
2. Owner Name
3. Contact Name
4. Contact Address
5. Contact Phone and Fax Numbers

Bound Items. The Pre-Application consists of only one volume. The volume must be bound using the yellow pressboard binders and tabs provided with the application package. If a volume's required documentation exceeds the capacity of a binder, then purchase a similar binder and use it to subdivide the volume.

Pre-Application Threshold Criteria. The forms provided by the Department must be completed by using the version available on the TDHCA web site. If you have difficulty downloading the files from the website, staff will email you the documents. If a question does not pertain to the development, insert "N/A" in that space. **All questions and spaces must be completed.**

Tab PA1: The *LIHTC Pre-Application Submission Form*.

Tab PA2: The *LIHTC Pre-Application Self-Scoring Form*.

Tab PA3: Evidence of Site Control as described in the "List of Required Exhibits" section of the ASPM and as further described in §49.9(e)(6)(A) of the QAP.

One additional copy of the entire Pre-Application **must** be submitted; Pre-Application materials ordered through the Department include an additional set of yellow pressboard binders specifically for this purpose.

Unbound Items. One copy of the Market Analysis **may** be provided at Pre-application if an Applicant wishes to have the Department evaluate the development as it relates to the Concentration Policy. This is **not** required. The Market Analysis should not be bound in the pressboard covers. Please do not use three-ring binders for this unbound submissions.

Complete the *Document and Payment Receipt* and submit it with the above referenced documentation. **Do not bind the receipt in the Pre-Application. Don't forget your Pre-Application Fee as the Department is unable to accept a Pre-Application without the fee.**

FORMAT FOR PRE-CERTIFICATION AND ACKNOWLEDGEMENT

There are two documents that the Applicant is required to submit as part of their Application that are issued by the Department and must be requested in advance of the Application deadline.

1. Experience Certificate. Individuals (a person or an entity) that will be utilizing their experience to meet the experience threshold requirement must submit their evidence of experience to the Department no later than **Friday, February 21**. The required documents are explained in detail in §49.9(d)(1) of the QAP. After staff review of the documents, a Certificate of Experience will be issued and mailed back to the entity having requested the certificate. The Certificate is what must be included in the Application submission. While a form requesting the experience certificate is not required, a form has been created for this purpose entitled *2003 LIHTC Experience Certification* which is available on the Department's website.
2. Acknowledgement of Receipt of Financial Statement and Authorization to Release Credit. Individuals (a person or an entity) that will be required to submit a *Financial Statement and Authorization to Release Credit* form as part of the Application must submit their completed form(s) to the Department no later than **Friday, February 21**. To determine which individuals or entities need to submit these forms, refer to §49.9(d)(2) of the QAP. Upon receipt of the statements, the Department will issue an Acknowledgement of Receipt which will be mailed back to the entity having submitted the financials. The Acknowledgement is what must be included in the Application submission. It should be noted that

the Acknowledgement does not make any statement about the content of the financial statement, but merely acknowledges that the document has been received.

FORMAT FOR SUBMITTING THE APPLICATION

A complete Application for each proposed development must be submitted as described in this section. Incomplete Applications or improperly bound Applications **will not be accepted**. Applications must be presented in the order provided below.

The Applicant should ensure that all sets of documentation are clearly labeled with the:

1. Development Name
2. If a Pre-Application was submitted, include the assigned TDHCA Development Number
3. Owner Name
4. Contact Name
5. Contact Address
6. Contact Phone and Fax Numbers

Bound Items. Volumes 1 through 4 must be bound using the red pressboard binders and tabs provided with the application package. If a volume's required documentation exceeds the capacity of a binder, then purchase a similar binder and use it to subdivide the volume.

1. Volume 1 - *TDHCA Uniform Housing Programs Application, LIHTC Application Supplement*, and exhibits as described in the "List of Required Exhibits" section of the ASPM. The application and exhibits provided by the Department must be completed by using the version available on the TDHCA web site. If you have difficulty downloading the files from the website, staff will email you the documents. If a question does not pertain to the development, insert "N/A" in that space. **All questions and spaces must be completed.**
2. Volume 2 - Site Inspection Package described in the "List of Required Exhibits" section of the ASPM.
3. Volume 3 – Supplemental Threshold Documentation
Note: The Appraisal (if applicable), Market Analysis and Environmental Site Assessment are not submitted within this Volume.
4. Volume 4 - Selection Documentation

Unbound Items. The following documents will not be bound in the pressboard covers. Please do not use three-ring binders for these unbound submissions.

5. One additional copy of the entire Application (Volumes 1 through 4) **must** be submitted. Application materials ordered through the Department include an additional set of red pressboard binders specifically for this purpose. **Any Social Security numbers appearing in any portion of the Application submission must be removed from this second copy prior to submission to the Department.**
6. Appraisal (if required) may be bound using the analyst's preferred format.
7. Phase I Environmental Site Assessment may be bound using the analyst's preferred format.
8. Market Analysis may be bound using the analyst's preferred format.
9. An extra copy of Exhibit 1 of the Uniform Application (pages 1 through 29) including the depiction of the Organization Charts, bound with a binder clip or staple.

If the Applicant has received support/opposition letters from political representatives or members of the public, please staple such documents together with a brief letter of transmittal identifying them as such. **If these documents are part of the Threshold or Selection criteria bound as Volumes 3 and 4, include copies of the documents in both the unbound transmittal and Volumes 3 and 4.**

Complete the *Document and Payment Receipt* and submit it with the above referenced documentation. **Do not bind the receipt in the application. Don't forget your Application Fee as the Department is unable to accept an Application without the fee.**

LIST OF REQUIRED EXHIBITS FOR THE APPLICATION

This section describes the specific documents that should be placed behind each tab. **You must compile the Application based on the order provided in the ASPM.** Note that this order does not necessarily follow the order that is used in the QAP! Exhibits shown in *italics* are included in the Application and Reference Manual which will be available on the Department's website. Order forms for hard copies of these documents are also available.

Volume 1. Uniform Application and Qualifying Documentation. Include all of the following documents:

- Tab 1A:** The entire *TDHCA Uniform Housing Programs Application*. This includes Uniform Application Exhibits 1 through 5.
- Tab 1B:** Any and all attachments to the TDHCA Uniform Housing Programs Application. In the Uniform Application, there are symbols to assist in completing the form. One of the symbols is a black box that indicates that an attachment may be required. Those required attachments (if applicable to your submission) must be placed behind this tab. This **MUST** include, at a minimum, the organizational charts and financing plan.
- Behind this tab also place the current tax assessment documentation from the taxing entities for the entire proposed site. (Required by all Applicants)
- Tab 1C:** The *LIHTC Application Supplement* and *Project Completion Schedule*.
- Tab 1D:** The *Confirmation of Set-Aside Eligibility* form and any accompanying documents required by that form.
- Tab 1E:** The *Development Owner Certification* and *Consultant Certification*.
- Tab 1F:** The *Applicant Credit Limit Documentation and Certification*.
- Tab 1G:** The *LIHTC Application Self-Scoring Form*.

Volume 2. Site Inspection Package. Include all of the following documentation:

- Tab 2A:** Provide the current site address, project name, whether the project is existing or proposed, housing type, and owner name and contact name and phone number.
- Tab 2B:** A full, legible legal description of the site.
- Tab 2C:** A fold-up city map or a copy of a map clearly indicating the location of the development in relation to the entire city or town in which it is located. The map should also indicate the location of the following facilities within 2 miles of the site:
- Existing LIHTC or other affordable housing projects
 - Retail centers
 - Medical complexes
 - Recreational facilities
 - Educational facilities (elementary, secondary, high school, college or vocational) and libraries

Large scale employment centers

Public transportation stop closest to the site (if it falls within the two mile radius)

For tax exempt bond projects located in a QCT, include a census tract map clearly indicating census tract number and location of project.

- Tab 2D:** Copy of the site plan. Site plan must indicate adjacent street names, existing/proposed buildings, parking, ingress, egress, encroachments, flood plains, and easements.
- Tab 2E:** Photographs of site features (street signs, billboards, existing structures etc.) that will help staff correctly identify the site during the site inspection.
- Tab 2F:** Written instructions to the site from the nearest state or interstate highway.

Volume 3. Supplemental Threshold Documentation. Provide all of the following documentation:

Tab 3A: Development Certification and Design Items

1. *Development Certification Form.*

2. All of the architectural drawings identified in clauses (i) through (v). While full size design or construction documents are not required, the drawings must have an accurate and legible scale and show the dimensions. All Developments involving new construction, or conversion of existing buildings not configured in the Unit pattern proposed in the Application, must provide all of the items identified in clauses (i) through (v). For Developments involving rehabilitation for which the Unit configurations are not being altered, only the items identified in clauses (i), (ii) and (iii) are required:

(i) a site survey or drawing of the entire property that is under the control the prospective Development Owner, which must be a professionally generated (e.g. computer-generated or architectural draft; not a sketch) plat drawn to scale from a metes and bounds description;

(ii) a site plan which:

(I) is consistent with the number of Units and Unit mix specified in the “Rent Schedule” provided in the Uniform Application;

(II) identifies all residential, common buildings and amenities; and

(III) clearly delineates the flood plain boundary lines and other easements shown in the site survey;

(iii) floor plans for each type of residential building and each type of common area building;

(iv) floor plans and elevations for each type of residential building and each common area building clearly depicting the height of each floor and a percentage estimate of the exterior composition;

(v) Unit floor plans for each type of Unit showing special accessibility and energy features. The use of each room must be labeled. The net rentable areas these Unit floor plans represent should be consistent with those shown in the “Rent Schedule” provided in the application.

3. Rehabilitation Developments must submit photographs of the existing signage, typical building elevations and interiors, existing Development amenities, and site work. These photos should clearly document the typical areas and building components which exemplify the need for rehabilitation.

Tab 3B: Evidence of Development Costs

1. Provide a letter of commitment from a syndicator that, at a minimum, provides an estimate of the amount of equity dollars expected to be raised for the Development in conjunction with the amount of housing tax credits requested for allocation to the Applicant, including pay-in schedules, syndicator consulting fees and other syndication costs. No syndication costs should

be included in the Eligible Basis.

2. For Developments located in a Qualified Census Tract (QCT) as determined by the Secretary of HUD and qualifying for a 30% increase in Eligible Basis, pursuant to the Code, §42(d)(5)(C), Applicants must submit a copy of the census map clearly showing that the proposed Development is located within a QCT. Census tract numbers must be clearly marked on the map, and must be identical to the QCT number stated in the Department's Reference Manual.

3. If projected site work costs include unusual or extraordinary items or exceed \$7,500 per Unit, then the Applicant must provide a detailed cost breakdown prepared by a Third Party engineer or architect, and a letter from a certified public accountant allocating which portions of those site costs should be included in Eligible Basis and which ones may be ineligible.

Tab 3C: Evidence of Readiness to Proceed

As evidenced by at least one of the items under each of items (1) through (5):

1. Evidence of site control in the name of Development Owner. If the evidence is not in the name of the Development Owner, then the documentation should reflect an expressed ability to transfer the rights to the Development Owner. All individual Persons who are members of the Development Owner of the seller of the proposed Development property must be identified. One of the following items described in clauses (i) through (iii) must be provided:

(i) a recorded warranty deed; or

(ii) a contract for sale or lease (the minimum term of the lease must be at least 45 years) which is valid for the entire period the Development is under consideration for tax credits or at least 90 days, whichever is greater; or

(iii) an exclusive option to purchase which is valid for the entire period the Development is under consideration for tax credits or at least 90 days, whichever is greater.

2. Evidence from the appropriate local municipal authority that satisfies one of clauses (i) through (iii). Documentation must have been prepared and executed not more than 6 months prior to the close of the Application Acceptance Period.

(i) a letter from the chief executive officer of the political subdivision or another local official with appropriate jurisdiction stating that the Development is located within the boundaries of a political subdivision which does not have a zoning ordinance;

(ii) a letter from the chief executive officer of the political subdivision or another local official with appropriate jurisdiction stating that:

(I) the Development is permitted under the provisions of the zoning ordinance that apply to the location of the Development or that there is not a zoning requirement; or

(II) the Applicant is in the process of seeking the appropriate zoning and has signed and provided to the political subdivision a release agreeing to hold the political subdivision and all other parties harmless in the event that the appropriate zoning is denied, and a time schedule for completion of appropriate zoning. The Applicant must also provide at the time of Application a copy of the application for appropriate zoning filed with the local entity responsible for zoning approval and proof of delivery of that application in the form of a signed certified mail receipt, signed overnight mail receipt, or confirmation letter from said official. No later than April 1, 2003 (or for Tax Exempt Bond Developments no later than 14 days before the Board meeting where the credits will be committed), the Applicant must submit to the Department written evidence that the local entity responsible for initial approval of zoning has approved the appropriate zoning and that they will recommend approval of appropriate zoning to the entity responsible for final approval of zoning decisions (city council or county commission). If this evidence is not provided on or before April 1, 2003, the Application will be terminated. Final approval of appropriate zoning must be achieved and documentation of acceptable zoning for the Development, as proposed in the Application, must be provided to the

**Tab 3C
Continued**

Department at the time the Commitment Fee is paid. If this evidence is not provided with the Commitment Fee, any commitment of credits will be rescinded.

(iii) In the case of a rehabilitation Development, if the property is currently a non-conforming use as presently zoned, a letter which discusses the items in subclauses (I) through (IV) of this clause:

- (I) a detailed narrative of the nature of non-conformance;
- (II) the applicable destruction threshold;
- (III) owner's rights to reconstruct in the event of damage; and
- (IV) penalties for noncompliance.

3. This Exhibit is required for New Construction only. Evidence of the availability of all necessary utilities/services to the development site. Necessary utilities include natural gas (if applicable), electric, trash, water, and sewer. Such evidence must be a letter or a monthly utility bill from the appropriate municipal/local service provider. If utilities are not already accessible, then the letter must clearly state: an estimated time frame for provision of the utilities, an estimate of the infrastructure cost, and an estimate of any portion of that cost that will be borne by the Development Owner. Letters must be from an authorized individual representing the organization which actually provides the services. Such documentation should clearly indicate the Development property. If utilities are not already accessible (undeveloped areas), then the letter should not be older than three months from the first day of the Application Acceptance Period.

4. Evidence of interim and permanent financing sufficient to fund the proposed Total Housing Development Cost less any other funds requested from the Department and any other sources documented in the Application. Such evidence must be consistent with the sources and uses of funds represented in the Application and shall be provided in one or more of the following forms described in clauses (i) through (iv):

(i) bona fide financing in place as evidenced by a valid and binding loan agreement and a deed(s) of trust in the name of the Development Owner which identifies the mortgagor as the Applicant or entities which comprise the General Partner and/or expressly allows the transfer to the Development Owner; or,

(ii) bona fide commitment or term sheet for the interim and permanent loans issued by a lending institution or mortgage company that is actively and regularly engaged in the business of lending money which is addressed to the Development Owner, or entities which comprise the Applicant and which has been executed by the lender (the term of the loan must be for a minimum of 15 years with at least a 30 year amortization). The commitment must state an expiration date and all the terms and conditions applicable to the financing including the mechanism for determining the interest rate, if applicable, and the anticipated interest rate. Such a commitment may be conditional upon the completion of specified due diligence by the lender and upon the award of tax credits; or,

(iii) any Federal, State or local gap financing, whether of soft or hard debt, must be identified at the time of Application. At a minimum, evidence from the lending agency that an application for funding has been made and a term sheet which clearly describes the amount and terms of the funding, and the date by which the funding determination will be made and any commitment issued, must be submitted. While evidence of application for funding from another TDHCA program is not required except as indicated on the Uniform Application, the Applicant must clearly indicate that such an application has been filed. If the necessary financing has not been committed by the applicable lending agency, the Commitment Notice, Housing Credit Allocation or Determination Notice, as the case may be, will be conditioned upon Applicant obtaining a commitment for the required financing by a date certain, but no later than the date the Carryover Allocation Document is due to the Department; or

(iv) if the Development will be financed through Development Owner contributions, provide a letter from an Third Party CPA verifying the capacity of the Applicant to provide the

proposed financing with funds that are not otherwise committed together with a letter from the Applicant's bank or banks confirming that sufficient funds are available to the Applicant. Documentation must have been prepared and executed not more than 6 months prior to the close of the Application Acceptance Period.

5. A copy of the full legal description and either of the documents described in clauses (i) and (ii) and satisfying the requirements of clause (iii) if applicable:

(i) a copy of the current title policy which shows that the ownership (or leasehold) of the land/Development is vested in the exact name of the Applicant, or entities which comprise the Applicant; or

(ii) a copy of a current title commitment with the proposed insured matching exactly the name of the Applicant or entities which comprise the Applicant and the title of the land/Development vested in the name of the exact name of the seller or lessor as indicated on the sales contract or lease.

(iii) if the title policy or title commitment is more than six months old as of the day the Application Acceptance Period closes, then a letter from the title company indicating that nothing further has transpired on the policy or commitment.

Tab 3D: Evidence of Notifications

Evidence of all of the notifications described below. Such notices must be prepared in accordance with "*Public Notifications*" provided as a sample exhibit with the Application.

1. A copy of the public notice published in the most widely circulated newspaper in the area in which the proposed Development will be located. The newspaper must be intended for the general population and may not be a business newspaper or other specialized publication. Such notice must run at least twice within a thirty day period. Such notice must be published prior to the submission of the Application to the Department and can not be older than three months from the first day of the Application Acceptance Period. In communities located within a Metropolitan Statistical Area the notice should be published in the newspapers of both the Development community and the Metropolitan Statistical Area. Developments that involve rehabilitation and which are already serving low income residents are not required to provide this exhibit.

2. Evidence of notification of the local chief executive officer(s) (i.e., mayor and county judge), state senator, and state representative of the locality of the Development. Evidence of such notification shall include a letter which at a minimum contains a copy of the public notice sent to the official and proof of delivery in the form of a signed certified mail receipt, signed overnight mail receipt, or confirmation letter from said official. Proof of notification should not be older than three months from the first day of the Application Acceptance Period.

3. If any of the Units in the Development are occupied at the time of Application, then the Applicant must post a copy of the public notice in a prominent location at the Development throughout the period of time the Application is under review by the Department. A picture of this posted notice must be provided with this exhibit. When the Department's public hearing schedule for comment on submitted Applications becomes available, a copy of the schedule must also be posted until such hearings are completed. Compliance with these requirements shall be confirmed during the Department's site inspection.

4. Public Housing Waiting List. Evidence that the Development Owner has committed in writing to the local public housing authority(ies) (PHA) the availability of Units and that the Development Owner agrees to consider households on the PHA's waiting list as potential tenants and that the Property is available to Section 8 and other tenant-based rental assistance certificate or voucher holders. Evidence of this commitment must include a copy of the Development Owner's letter to

the PHA(s) and proof of delivery in the form of a certified mail receipt, overnight mail receipt, or confirmation letter from said PHA(s). Proof of notification should not be older than six months from the close of the Application Acceptance Period. If no PHA is within the locality of the Development, the Development Owner must utilize the nearest authority or office responsible for administering Section 8 programs.

Tab 3E: Organization Documents

Each entity shown on an organizational chart as described in Section 49.9(e)(8)(A) of the QAP, and as provided in the Uniform Application, shall provide the following documentation, as applicable:

1. For entities that are not yet formed but are to be formed either in or outside of the state of Texas:
 - (I) a certificate of reservation of the entity name from the Texas Secretary of State and from the state in which the entity is to be formed if different from Texas; and
 - (II) an executed letter of intent to organize or a copy of the draft organizational documents for the entity to be formed including Articles of Incorporation, Articles of Organization or Partnership Agreement.

2. For existing entities whether formed in or outside of the state of Texas:
 - (I) A Certificate of Account Status from the Texas Comptroller of Public Accounts or, if such a Certificate is not available because the entity is newly formed, a statement to such effect; and
 - (II) for entities formed in a state other than Texas a certificate of authority to do business in Texas or an application for a certificate of authority,
 - (III) Copies of the entity's governing documents, including, but not limited to, its Articles of Incorporation, Articles of Organization, Certificate of Limited Partnership, Bylaws, Regulations and/or Partnership Agreement.

3. The Applicant must provide evidence that the signer(s) of the Application have the authority to sign on behalf of the Applicant in the form of a corporate resolution or by-laws which indicate same from the sub-entity in Control of the Applicant, and that those persons constitute all persons required to sign or submit such documents. A cover sheet must be placed before the copy of the organizational documents, identifying the relevant document(s) where the evidence of authority to sign is to be found and specifying exactly where the applicable information exists within all relevant documents by page number or by section and subsection if the pages are not numbered.

Tab 3F: Precertifications

1. Evidence of an *LIHTC Experience Certificate* showing that the Developer and the Development Owner's General Partner, partner (or if Applicant is to be a limited liability company, the managing member) or their Principals have a record of successfully constructing or developing residential units or comparable commercial property (i.e. dormitory and hotel/motel) in the capacity of Developer, Development Owner, General Partner or managing member. Applicants should ensure that the individual whose name is on the certification appears in the organizational chart provided in subparagraph (A) of this paragraph.

2. Evidence of an *Acknowledgement of Receipt of Financial Statement and Authorization to Release Credit Information* must be provided for any person with an ownership interest in the General Partner (or Managing Member), interest in the Applicant, or the Developer, or anticipated to provide guarantees to secure necessary financing, as required under §49.9(d) of the QAP.

Tab 3G: Income and Operating Documentation

1. If rental assistance, an operating subsidy, an annuity, or an interest rate reduction payment is proposed to exist or continue for the Development, any related contract or other agreement securing those funds must be provided, which at a minimum identifies the source and annual amount of the funds, the number of Units receiving the funds, and the term and expiration date of the contract or other agreement.

2. Occupied Developments undergoing rehabilitation must also submit the items described in clauses (i) through (iv) of this subparagraph.

(i) Unless the current property owner is unwilling to provide the required documentation, if which even a signed statement as to their unwillingness to do so is required:

(I) historical monthly operating statements of the subject Development for 12 consecutive months ending not more than 45 days prior to the first day of the Application Acceptance Period. In lieu of the monthly operating statements, two annual operating statement summaries may be provided. If 12 months of operating statements or two annual operating summaries cannot be obtained, then the monthly operating statements since the date of acquisition of the Development and any other supporting documentation used to generate projections may be provided; and

(II) a rent roll not more than 6 months old as of the day the Application Acceptance Period closes, that discloses the terms and rate of the lease, rental rates offered at the date of the rent roll, Unit mix, tenant names or vacancy, and dates of first occupancy and expiration of lease.

(ii) a written explanation of the process used to notify and consult with the tenants in preparing the Application;

(iii) a relocation plan outlining relocation requirements and a budget with an identified funding source; and

(iv) if applicable, evidence that the relocation plan has been submitted to the appropriate legal agency.

Tab 3H: Nonprofit Documentation

1. All Applicants involving a nonprofit General Partner (or Managing Member), regardless of the Set-Aside applied under, must submit all of the documents described in clauses (i) and (ii) which confirm that the Applicant is a Qualified Nonprofit Organization pursuant to Code, §42(h)(5)(C):

(i) an IRS determination letter which states that the Qualified Nonprofit Organization is a 501(c)(3) or (4) entity;

(ii) a copy of the articles of incorporation of the nonprofit organization which specifically states that the fostering of affordable housing is one of the entity's exempt purposes;

2. Additionally, all Applicants applying under the Nonprofit Set-Aside, established under §49.7(b)(1) of this title, must also provide the following information with respect to the Qualified Nonprofit Organization as described in clauses (i) through (v).

(i) evidence that one of the exempt purposes of the nonprofit organization is to provide low income housing;

(ii) evidence that the nonprofit organization prohibits a member of its board of directors, other than a chief staff member serving concurrently as a member of the board, from receiving material compensation for service on the board;

(iii) a Third Party legal opinion stating:

(I) that the nonprofit organization is not affiliated with or controlled by a for-profit organization and the basis for that opinion, and

(II) that the nonprofit organization is eligible, as further described, for a Housing Credit Allocation from the Nonprofit Set-Aside and the basis for that opinion.

Eligibility is contingent upon the non-profit organization controlling a majority of the Development, or if the organization's Application is filed on behalf of a limited partnership, or limited liability company, being the managing General Partner (or Managing Member); and otherwise meet the requirements of the Code, §42(h)(5);

(iv) a copy of the nonprofit organization's most recent audited financial statement;

(v) evidence, in the form of a certification, that a majority of the members of the nonprofit organization's board of directors principally reside:

(I) in this state, if the Development is located in a rural area; or

(II) not more than 90 miles from the Development in the community in which the Development is located, if the Development is not located in a rural area.

Tab 3I: Acquisition / Identity of Interest

Applicants applying for acquisition credits or affiliated with the seller must provide all of the documentation described in subparagraphs (A) through (C). Applicants applying for acquisition credits must also provide the items described in subparagraph (D) and as provided in the Application.

(A) an appraisal, not more than 6 months old as of the day the Application Acceptance Period closes, which complies with the Uniform Standards of Professional Appraisal Practice and the Department's Market Analysis and Appraisal Policy. For Developments qualifying in the TX-USDA-RHS Set-Aside, the appraisal may be more than 6 months old, but not more than 12 months old as of the day the Application Acceptance Period closes. This appraisal of the property must separately state the as-is, pre-acquisition or transfer value of the land and the improvements where applicable;

(B) a valuation report from the county tax appraisal district;

(C) clear identification of the selling Persons or entities, and details of any relationship between the seller and the Applicant or any Affiliation with the Development Team, Qualified Market Analyst or any other professional or other consultant performing services with respect to the Development. If any such relationship exists, complete disclosure and documentation of the related party's original acquisition and holding and improvement costs since acquisition, and any and all exit taxes, to justify the proposed sales price must also be provided; and

(D) "*Acquisition of Existing Buildings Form.*"

Tab 3J: Market Analysis and Environmental Site Assessment

Upon Application submission, the Applicant may provide evidence in the form of an executed engagement letter with the party performing each of the individual reports that the required exhibit has been commissioned to be performed and that the delivery date will be no later than March 31, 2003. Subsequently, the entire exhibit must be submitted on or before 5:00 p.m. CST, March 31, 2003. If the entire exhibit is not received by that time, the Application will be terminated for a Material Deficiency and will be removed from consideration.

If the full report is provided unbound, then no documentation is needed behind this Tab. This Tab is only for Applicants who are submitting evidence of transmittal letters.

Volume 4. Documentation for Selection Criteria (Not Required for Tax Exempt Bond/LIHTC Applications)

Note: If you do not wish to claim points for an item, then no documentation is needed.

Tab 4A: Development Location Characteristics. Evidence, not more than 6 months old from the date of the close of the Application Acceptance Period, that the subject Property is located within one of the geographical areas described in subparagraphs (A) through (D) of this paragraph.

(A) A geographical area which is:

(i) a Targeted Texas County (TTC) or Economically Distressed Area; or

(ii) a Colonia, or

(iii) a Difficult Development Area (DDA) as specifically designated by the Secretary of HUD.

(B) a designated state or federal empowerment/enterprise zone, urban enterprise community, or urban enhanced enterprise community. Such Developments must submit a letter and a map from a city/county official verifying that the proposed Development is located within such a designated zone. Letter should be no older than 6 months from the close of the Application Acceptance Period.

(C) a city-sponsored Tax Increment Financing Zone (TIF), Public Improvement District (PIDs), or other area or zone where a city or county has, through a local government initiative, specifically encouraged or channeled growth, neighborhood preservation or redevelopment. Such Developments must submit all of the following documentation: a letter from a city/county official verifying that the proposed Development is located within the city sponsored zone or district; a map from the city/county official which clearly delineates the boundaries of the district; and a certified copy of the appropriate resolution or documentation from the mayor, local city council, county judge, or county commissioners court which documents that the designated area was:

(i) created by the local city council/county commission, and
(ii) targets a specific geographic area which was not created solely for the benefit of the Applicant.

(D) a non-impacted Census Block pursuant to the Young vs. Martinez judgment. Such Developments must submit evidence in the form of a letter from HUD that the Development is located in such an area.

Tab 4B: Support and Consistency with Local Planning. All documents must not be older than 6 months from the close of the Application Acceptance Period. Points may be received under both subparagraph (A) or (B).

(A) Evidence from the local municipal authority stating that the Development fulfills a need for additional affordable rental housing as evidenced in a local consolidated plan, comprehensive plan, or other local planning document; or a letter from the local municipal authority stating that there is no local plan and that the city supports the Development.

(B) Community Support. Points will be awarded based on the written statements of support from local and state elected officials representing constituents in areas that include the location of the Development and from neighborhood and/or community civic organizations for areas that encompass the location of the Development. Letters of support must identify the specific Development and must state support of the specific Development at the proposed location. This documentation must be provided as part of the Application. Letters of support from state officials that do not represent constituents in areas that include the location of the Development will not qualify for points under this Exhibit, nor do letters of support from organizations that are not active in the area that includes the location of the Development. For the purposes of this Exhibit neighborhood and/or community civic organizations do not include governmental entities, taxing entities or educational entities. Letters of support received after the close of the Application Acceptance Period will not be accepted for this Exhibit. Points can be awarded for letters of support as identified in clauses (i) through (iv):

(i) from United States Representative or Senate Member
(ii) from State of Texas Representative or Senate Member
(ii) from the Mayor, County Judge, City Council Member, or County Commissioner indicating support; or a resolution from the local governing entity indicating support of the Development
(iv) from neighborhood and/or community civic organizations.

Tab 4C: *Unit Amenities and Quality Selection Criteria* Form.

Tab 4D: The Development is an existing Residential Development without maximum rent limitations or set-asides for affordable housing for which the proposed rehabilitation is part of a community revitalization plan. If maximum rent limitations had existed previously, then the restrictions must

have expired at least one year prior to the date of Application to the Department.

- Tab 4E:** Evidence that the proposed historic Residential Development has received an historic property designation by a federal, state or local governmental entity. Such evidence must be in the form of a letter from the designating entity identifying the Development by name and address and stating that the Development is:
- (i) listed in the National Register of Historic Places under the United States Department of the Interior in accordance with the National Historic Preservation Act of 1966;
 - (ii) located in a registered historic district and certified by the United States Department of the Interior as being of historic significance to that district;
 - (iii) identified in a city, county, or state historic preservation list; or
 - (iv) designated as a state landmark.
- Tab 4F:** Evidence that the proposed Development is partially funded by a HOPE VI, Section 202 or Section 811 grant or project-based Section 8 voucher from HUD; or a Community Development Block Grant or HOME award. If the proposed Development involves a Section 811 grant the Applicant must provide evidence that the Development will comply with the Department's definition of Integrated Housing. The Development must have already applied for funding from the funding entity. Evidence shall include a copy of the application to the funding entity and a letter from the funding entity indicating that the application was received. Notice of actual commitment must be received consistent with §49.9(e)(6)(D)(iii). In the event that an award is not made by the funding entity, the Department will reevaluate the Application to ensure its continued financial feasibility.
- Tab 4G:** Sponsor Characteristics. Developments may only receive points for one of the three criteria listed in subparagraphs (A) through (C). To satisfy the requirements of subparagraphs (A) or (B), a copy of an agreement between the two partnering entities must be provided which shows that the nonprofit organization or HUB will hold an ownership interest in and materially participate (within the meaning of the Code §469(h)) in the development and operation of the Development throughout the Compliance Period and clearly identifies the ownership percentages of all parties.
- (A) Evidence that a HUB, as certified by the Texas Building and Procurement Commission (formerly General Services Commission), has an ownership interest in and materially participates in the development and operation of the Development throughout the Compliance Period. To qualify for these points, the Applicant must submit a certification from the Texas Building and Procurement Commission (formerly General Services Commission) that the Person is a HUB at the close of the Application Acceptance Period. Evidence will need to be supplemented, either at the time the Application is submitted or at the time a HUB certification renewal is received by the Applicant, confirming that the certification is valid through July 31, 2003 and renewable after that date.
 - (B) Joint Ventures with Qualified Nonprofit Organizations. Evidence that the Development involves a joint venture between a for profit organization and a Qualified Nonprofit Organization. The Qualified Nonprofit Organization must be materially participating in the Development as one of the General Partners (or Managing Members), but is not required to have Control, to receive these points. However, to also be eligible for the Nonprofit Set-Aside, as further described in §49.7 of this title, the Qualified Nonprofit Organization must have Control.
 - (C) The proposed Development involves the rehabilitation of existing Units, or on- or off-site replacement of Units, that are owned by a Public Housing Authority, and which Units, or replacement Units, will continue to be owned by a partnership Controlled by said Public Housing Authority or its nonprofit affiliate as evidenced by a partnership agreement showing the Control by the said Public Housing Authority. A Housing Finance Agency is not considered to be a Public Housing Authority for purposes of this exhibit.
- Tab 4H:** *Tenant Supportive Services Certification.*
- Tab 4I:** Tenant Characteristics – Populations with Special Needs. Evidence that the Development is designed solely for transitional housing for homeless persons on a non-transient basis, with supportive services designed to assist tenants in locating and retaining permanent housing. For the

purpose of this exhibit, homeless persons are individuals or families that lack a fixed, regular, and adequate nighttime residence as more fully defined in 24 Code of Federal Regulations, §91.5, and as may be amended from time to time. All of the items described in subparagraphs (A) through (E) must be submitted:

- (A) a detailed narrative describing the type of proposed housing;
- (B) a referral agreement, not more than 12 months old from the first day of the Application Acceptance Period, with an established organization which provides services to the homeless;
- (C) a marketing plan designed to attract qualified tenants and housing providers;
- (D) a list of supportive services; and
- (E) adequate additional income source to supplement any anticipated operating and funding gaps.

Tab 4J: *Low Income Targeting – Category A – Selection Criteria Form.*
 Low Income Targeting – Category B – Selection Criteria Form.

Tab 4K: *Length of Affordability Selection Criteria Form.*

Tab 4L: *Agreement for Provision of the Right of First Refusal Form.*

Tax Exempt Bond/LIHTC Applications Only - Documentation demonstrating the Project's consistency with the bond issuer's consolidated plan or other similar planning document must be provided. Consistency with the local municipality's consolidated plan or similar planning document must also be shown in those instances where the city or county has a consolidated plan.

VIEWING OF PRE-APPLICATIONS AND APPLICATIONS

The Department will have a viewing room that will allow the public to view any Pre-Applications or Applications that have been submitted to the Department. The viewing room will be set up within approximately ten business days of the Close of the Pre-Application Acceptance Period and within approximately ten business days of the Close of the Application Acceptance Period. The viewing room will be open between the hours of 9:00 am and 4:00 pm Monday through Friday. It is recommended that an appointment be made so that adequate staff are available. Appointments can be made by contacting the LIHTC Program at 512/475-3340.

2003 ALLOCATION ROUND TENTATIVE TIMELINE FOR A HOUSING CREDIT ALLOCATION FROM THE STATE HOUSING CREDIT CEILING

NOVEMBER 2002

Thursday, November 14	Board to Approve a final QAP for submission to Governor. ASPM Approved.
Wednesday, November 20	Application Workshop in Houston
Friday, November 22	Application Workshop in Dallas
Monday, November 25	Application Workshop in Austin

DECEMBER 2002

Wednesday, December 4	Pre-application and Application Acceptance Period Opens
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JANUARY 2003

Friday, January 10	Pre-Applications Cycle Closes
Friday, January 17	Pre-Application Submission log released on Web Site

FEBRUARY 2003

Monday, February 3	Release of Results of Pre-Application Evaluations on Web Site
Friday, February 28	Application Cycle Closes

MARCH 2003

Friday, March 14	Release Application Submission Log on website.
Monday, March 31	Deadline for Submission of Market Study and Environmental Site Assessment

APRIL and MAY 2003

Through April and May	Public Hearings for Comment on Applications Program Review – Release Notice of Selection Criteria Scoring Site Inspections and Underwriting Approval of Draft List by EARAC
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JUNE 2003

Month of June	Recommendations to Board released on Web Site Board Meeting to Provide Initial Approval of Recommended List
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JULY 2003

Month of July	Board Meeting to Provide Final Allocation
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INSTRUCTIONS FOR COMPLETING THE WEB VERSION OF THE LIHTC APPLICATION

Submit a hard copy of the Application with original signatures. The Application consists of the following files:

File Name	File Description
03UniformAppPartI	Part I of the TDHCA Uniform Application (Word)
03UniformAppPartII	Part II of the TDHCA Uniform Application (Excel)
03LIHTCAppSupp.doc	LIHTC Application (Word)
03LIHTCExhibits.doc	Exhibits Provided by the Department (Word)

WORD DOCUMENTS

The Word documents are formatted in Microsoft Word Version 97 and are set up as protected documents with fields where the Applicant may enter requested information. The Applicant will be unable to change the Application's text or formatting. Open, save and print the document as would be typically done in Word.

Entering Data. There are two types of fields in the application:

Symbol Field Type and Applicant Response

Symbol	Field Type	Applicant Response
00000	Text Field	Type the requested number or text. Press the "Enter" or "Tab" key to move to the next field.
<input type="checkbox"/>	Check boxes	Press the space bar once to select the box (an "X" will appear in the box). Press the "Enter" or "Tab" key to move to the next field. If a box must be unselected, press the space bar again and the "X" will be removed.

The Application does not have to be completed in one sitting. When a stopping point is reached, save the document. The entered data will be saved and the Application can be completed at a later time.

Moving through the Application

- To move forward one field, use any of the following keys: "Enter", "Tab", → or ↓.
- To move back one field, use the ← key or the ↑ key.
- The mouse can be used to select a specific field or move within the Application without having to pass through the fields consecutively.

Note: In previous years, some Applicants have noted a discrepancy between their printed copy and the hard copy provided by the Department. Typically this occurred when the manual page breaks in the document were disrupted by wrapping of text lines that exceeded the available space for the information. **This is a formatting problem only and will not effect the Department's review of the Application.**

EXCEL DOCUMENTS

A few of the sections in the Application have been set up in Excel. The standard procedure is to open the file and enter the requested information in the boxed areas. If "0" is in a cell when the file is opened, then that cell contains a formula. Be careful not to delete these formulas.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

MEMORANDUM

TO: TDHCA Board Members
FROM: Edwina Carrington, Executive Director
SUBJECT: **2002 Waiting List**
DATE: November 7, 2002

At the August 8, 2002 Board meeting the Board approved a Waiting List for the 2002 LIHTC Application Cycle. The Waiting List identifies, in prioritization order, which applicants are next in line for an allocation of credits in the event of any returned credits. When the Waiting List was approved on August 8, the Board indicated that staff should return to the Board for authorization to issue Commitment Notices to the next developments on the list if credits became available. In October staff did come before the Board to get approval to allocate credits to several developments on the Waiting List.

However, in preparing for the possibility that more credits may be returned before the end of the calendar year, staff would like to request authorization to issue Commitment Notices to the next developments on the Waiting List without returning to the Board for approval, in the event that credits do materialize. The reason for this request is that all 2002 awardees must execute a Carryover Allocation Document with the Department no later than December 31, 2002. There are several requirements associated with this deadline that make meeting the deadline quite difficult for applicants from the waiting list, who do not receive their commitment until much later in the year. Therefore, to minimize the effect of receiving a "late" allocation on these applicants, staff requests the ability to issue the Commitment Notices as soon as the credits are available.

**Low Income Housing Tax Credit Program
Board Action Request
November 14, 2002**

Action Item

Request review and possible approval of four percent (4%) tax credit applications with other issuers for tax exempt bond transactions. **TDHCA as Issuer** for tax exempt bond transactions.

Recommendation

Staff is recommending that the board review and approve the issuance of four percent (4%) Tax Credit Determination Notices with **TDHCA as Issuer** for tax exempt bond transactions known as:

Development No.	Name	Location	Total Units	LI Units	Total Development Costs	Recommended Tax Exempt Bond Amount	Recommended Credit Allocation
02043	Greenland Park Apartments	Houston	252	252	\$21,602,550	\$12,500,000	\$640,567
02044	Woodway Village Apartments	Austin	160	160	\$15,913,054	\$ 9,100,000	\$627,152



LOW INCOME HOUSING TAX CREDIT PROGRAM
2002 LIHTC/TAX EXEMPT BOND DEVELOPMENT PROFILE AND BOARD SUMMARY
 Texas Department of Housing and Community Affairs

Development Name: **Greenland Park Apartments**

TDHCA#: 02443

DEVELOPMENT AND OWNER INFORMATION

Development Location: Houston QCT: N DDA: N TTC: N
 Development Owner: Greenland Apartments, Limited Partnership
 General Partner(s): TCR Greenland Partners Limited Partnership, 100%, Contact: Brent Stewart
 Construction Category: New
 Set-Aside Category: Tax Exempt Bond Bond Issuer: TDHCA
 Development Type: Family

Annual Tax Credit Allocation Calculation

Applicant Request: \$652,220 Eligible Basis Amt: \$640,567 Equity/Gap Amt.: \$927,156
Annual Tax Credit Allocation Recommendation: \$640,567
 Total Tax Credit Allocation Over Ten Years: 6,405,670

PROPERTY INFORMATION

Unit and Building Information

Total Units: 252 LIHTC Units: 252 % of LIHTC Units: 100%
 Gross Square Footage: 261,286 Net Rentable Square Footage: 257,136
 Average Square Footage/Unit: 1020
 Number of Buildings: 21
 Currently Occupied: N

Development Cost

Total Cost: \$21,602,550 Total Cost/Net Rentable Sq. Ft.: \$84.01

Income and Expenses

Effective Gross Income:¹ \$2,119,728 Ttl. Expenses: \$936,491 Net Operating Inc.: \$1,183,237
 Estimated 1st Year DCR: 1.07

DEVELOPMENT TEAM

Consultant: Not Utilized Manager: South Central RS, Inc.
 Attorney: Jones, Day, Reavis & Pogue Architect: HLM Architects, Inc.
 Accountant: Reznick, Fedder & Silverman Engineer: To Be Determined
 Market Analyst: REVAC, Inc. Lender: Kirkpatrick Pettis
 Contractor: TCR Greenland Construction, LP Syndicator: SunAmerica Affordable Housing Partners, Inc.

PUBLIC COMMENT²

From Citizens:	From Legislators or Local Officials:
# in Support: 0 # in Opposition: 1972; which includes letters, emails and petition signatures.	Sen. Jon Lindsay, District 7 - O Rep. William Callegari, District 130 - O Judge Robert Eckels - NC Xavier Lemond, Chief Operating Officer, Harris County Development Department; Consistent with Harris County's Consolidated Plan.

1. Gross Income less Vacancy
 2. NC - No comment received, O - Opposition, S - Support

CONDITION(S) TO COMMITMENT

1. Per §49.7(i)(6) of the Qualified Allocation Plan and Rules, all Tax Exempt Bond Project Applications “must provide an executed agreement with a qualified service provider for the provision of special supportive services that would otherwise not be available for the tenants. The provision of such services will be included in the Declaration of Land Use Restrictive Covenants (“LURA”).”
2. Receipt, review, and acceptance of evidence that the MUD will reimburse the developer for a portion of the stimated off-site costs (approximately \$187,405).
3. Receipt, review, and acceptance of financial statements for J Ronald Terwilliger and Terwilliger Partners dated no earlier than twelve months prior to the receipt of the 2002 4% LIHTC application for this development.

DEVELOPMENT’S SELECTION BY PROGRAM MANAGER & DIVISION DIRECTOR IS BASED ON:

Score Utilization of Set-Aside Geographic Distrib. Tax Exempt Bond. Housing Type

Other Comments including discretionary factors (if applicable).

Charles E. Nwaneri, LIHTC Co-Manager

Date

David Burrell, Director of Housing Programs

Date

DEVELOPMENT’S SELECTION BY EXECUTIVE AWARD AND REVIEW ADVISORY COMMITTEE IS BASED ON:

Score Utilization of Set-Aside Geographic Distrib. Tax Exempt Bond Housing Type

Other Comments including discretionary factors (if applicable). _____

Edwina P. Carrington, Executive Director
Chairman of Executive Award and Review Advisory Committee

Date

TDHCA Board of Director’s Approval and description of discretionary factors (if applicable).

Chairperson Signature: _____
Michael E. Jones, Chairman of the Board

Date

Developer Evaluation

Compliance Status Summary

Project ID #: 02443

LIHTC 9% LIHTC 4%

Project Name: Greenland Apartments

HOME HTF

Project City:

BOND SECO

Housing Compliance Review

Project(s) in material non-compliance

No previous participation

Status of Findings (individual compliance status reports and National Previous Participation and Background Certification(s) available)

Projects Monitored by the Department

reviewed 5 # not yet monitored or pending review 3

of projects grouped by score 0-9: 5 10-19: 0 20-29: 0

Members of the development team have been disbarred by HUD

National Previous Participation Certification Received Yes

Non-Compliance Reported No

Completed by Jo En Taylor **Completed on** 10/28/2002

Single Audit

Status of Findings (any outstanding single audit issues are listed below)

single audit not applicable no outstanding issues outstanding issues

Comments:

Completed by Lucy Trevino **Completed on** 10/28/2002

Program Monitoring

Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by Ralph Hendrickson **Completed on** 10/28/2002

Community Affairs Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by EEF **Completed on** _____

Housing Finance Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by _____ **Completed on** _____

Housing Programs Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by S. Roth **Completed on** 10/28/2002

Multifamily Finance Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by Robbye Meyer **Completed on** 10/28/2002

Executive Director: _____ **Date Signed:** _____



LOW INCOME HOUSING TAX CREDIT PROGRAM
2002 LIHTC/TAX EXEMPT BOND DEVELOPMENT PROFILE AND BOARD SUMMARY
 Texas Department of Housing and Community Affairs

Development Name: **Woodway Village Apartments**

TDHCA#: 02444

DEVELOPMENT AND OWNER INFORMATION

Development Location: Austin QCT: Y DDA: N TTC: N
 Development Owner: Nuckols Crossing Partners, Ltd.
 General Partner(s): Richco Rinehart Investments, LLC, 51%, Contact: Joyce E. Rinehart; Blazer Residential, Inc., 49%, Contact: Chris Richardson
 Construction Category: New
 Set-Aside Category: Tax Exempt Bond Bond Issuer: TDHCA
 Development Type: Family

Annual Tax Credit Allocation Calculation

Applicant Request: \$662,114 Eligible Basis Amt: \$627,152 Equity/Gap Amt.: \$841,118
Annual Tax Credit Allocation Recommendation: \$627,152
 Total Tax Credit Allocation Over Ten Years: 6,271,520

PROPERTY INFORMATION

Unit and Building Information

Total Units: 160 LIHTC Units: 160 % of LIHTC Units: 100%
 Gross Square Footage: 182,474 Net Rentable Square Footage: 177,434
 Average Square Footage/Unit: 1109
 Number of Buildings: 30
 Currently Occupied: N

Development Cost

Total Cost: \$15,913,054 Total Cost/Net Rentable Sq. Ft.: \$89.68

Income and Expenses

Effective Gross Income:¹ \$1,457,386 Ttl. Expenses: \$627,340 Net Operating Inc.: \$830,046
 Estimated 1st Year DCR: 1.16

DEVELOPMENT TEAM

Consultant: Not Utilized Manager: Orion Real Estate Services
 Attorney: Gardere, Wynn, Sewell & Riggs Architect: Mark Mucasey, AIA
 Accountant: Reznick, Fedder & Silverman Engineer: Baker Aicklen
 Market Analyst: Capitol Market Research Lender: Lend Lease Mortgage Capital, L.P.
 Contractor: Blazer Building, Inc. Syndicator: Lend Lease Real Estate Investments

PUBLIC COMMENT²

From Citizens:	From Legislators or Local Officials:
# in Support: 0 # in Opposition: 0	Sen. Gonzalo Barrientos, District 14 - NC Rep. Glen Maxey, District 51 - NC Mayor Gus Garcia - NC Paul Hilgers, Community Development Officer, Neighborhood Housing and Community Development Office; Consistent with the City of Austin's Consolidated Plan.

1. Gross Income less Vacancy
 2. NC - No comment received, O - Opposition, S - Support

CONDITION(S) TO COMMITMENT

1. Per §49.7(i)(6) of the Qualified Allocation Plan and Rules, all Tax Exempt Bond Project Applications “must provide an executed agreement with a qualified service provider for the provision of special supportive services that would otherwise not be available for the tenants. The provision of such services will be included in the Declaration of Land Use Restrictive Covenants (“LURA”).”
2. Receipt, review, and acceptance of a copy of the release of liens on the property or an updated title commitment showing clear title.

DEVELOPMENT'S SELECTION BY PROGRAM MANAGER & DIVISION DIRECTOR IS BASED ON:

Score Utilization of Set-Aside Geographic Distrib. Tax Exempt Bond. Housing Type

Other Comments including discretionary factors (if applicable).

Charles E. Nwaneri, LIHTC Co-Manager

Date

David Burrell, Director of Housing Programs

Date

DEVELOPMENT'S SELECTION BY EXECUTIVE AWARD AND REVIEW ADVISORY COMMITTEE IS BASED ON:

Score Utilization of Set-Aside Geographic Distrib. Tax Exempt Bond Housing Type

Other Comments including discretionary factors (if applicable)._____

Edwina P. Carrington, Executive Director
Chairman of Executive Award and Review Advisory Committee

Date

TDHCA Board of Director's Approval and description of discretionary factors (if applicable).

Chairperson Signature: _____

Michael E. Jones, Chairman of the Board

Date

Developer Evaluation

Compliance Status Summary

Project ID #: 02444

LIHTC 9% LIHTC 4%

Project Name: Woodway Village

HOME HTF

Project City:

BOND SECO

Housing Compliance Review

Project(s) in material non-compliance

No previous participation

Status of Findings (individual compliance status reports and National Previous Participation and Background Certification(s) available)

Projects Monitored by the Department

reviewed 3 # not yet monitored or pending review 3

of projects grouped by score 0-9: 2 10-19: 0 20-29: 1

Members of the development team have been disbarred by HUD

National Previous Participation Certification Received N/A

Non-Compliance Reported _____

Completed by Jo En Taylor **Completed on** 10/28/2002

Single Audit

Status of Findings (any outstanding single audit issues are listed below)

single audit not applicable no outstanding issues outstanding issues

Comments:

Completed by Lucy Trevino **Completed on** 10/28/2002

Program Monitoring

Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by Ralph Hendrickson **Completed on** 10/28/2002

Community Affairs Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by EEF **Completed on** _____

Housing Finance Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by _____ **Completed on** _____

Housing Programs Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by S. Roth **Completed on** 10/28/2002

Multifamily Finance Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by Robbye Meyer **Completed on** 10/28/2002

Executive Director: _____ **Date Signed:** _____

**Low Income Housing Tax Credit Program
Board Action Request
November 14, 2002**

Action Item

Request review and possible approval of four percent (4%) tax credit applications with other issuers for tax exempt bond transactions.

Recommendation

Staff is recommending that the board review and approve the issuance of four percent (4%) Tax Credit Determination Notices with **other issuers** for tax exempt bond transactions known as:

Development No.	Name	Location	Issuer	Total Units	LI Units	Total Development	Applicant Proposed Tax Exempt Bond Amount	Recommended Credit Allocation
02045	Saddlebrook Apartments	San Antonio	Bexar County HFA	412	408	\$17,633,148	\$12,000,000	\$577,674
02051	Gates of Capernum Apartments	San Antonio	Bexar County HFA	248	248	\$18,017,088	\$12,200,000	\$565,027
02055	Sanger Trails Apartments	Sanger	Denton County HFA	208	208	\$13,516,581	\$ 9,884,774	\$444,126



LOW INCOME HOUSING TAX CREDIT PROGRAM
2002 LIHTC/TAX EXEMPT BOND DEVELOPMENT PROFILE AND BOARD SUMMARY
 Texas Department of Housing and Community Affairs

Development Name: **Saddlebrook Apartments**

TDHCA#: 02445

DEVELOPMENT AND OWNER INFORMATION

Development Location: San Antonio QCT: N DDA: N TTC: N
 Development Owner: American Opportunity for Housing-Saddlebrook Apartments, L.P.
 General Partner(s): American Opportunity for Housing - Saddlebrook Apartments, LLC, 100%,
 Contact: David Starr
 Construction Category: Aquis/Rehab
 Set-Aside Category: Tax Exempt Bond Bond Issuer: Bexar County HFC
 Development Type: Family

Annual Tax Credit Allocation Calculation

Applicant Request: \$577,885 Eligible Basis Amt: \$577,674 Equity/Gap Amt.: \$604,219
Annual Tax Credit Allocation Recommendation: \$577,674
 Total Tax Credit Allocation Over Ten Years: 5,776,740

PROPERTY INFORMATION

Unit and Building Information

Total Units: 412* LIHTC Units: 408 % of LIHTC Units: 99%
 Gross Square Footage: 327,504 Net Rentable Square Footage: 313,681
 Average Square Footage/Unit: 761
 Number of Buildings: 54
 Currently Occupied: Y

Development Cost

Total Cost: \$17,633,148 Total Cost/Net Rentable Sq. Ft.: \$56.21

Income and Expenses

Effective Gross Income:¹ \$2,360,287 Ttl. Expenses: \$1,150,853 Net Operating Inc.: \$1,209,434
 Estimated 1st Year DCR: 1.18

DEVELOPMENT TEAM

Consultant: Leslie Donaldson & Associates, Inc. Manager: The Lynd Company
 Attorney: Loeffler, Jonas & Tuggey, LLP Architect: Not Utilized
 Accountant: Thomas Stephen & Company, LLP Engineer: To Be Determined
 Market Analyst: Mark Temple Lender: Newman Financial Services, Inc.
 Contractor: The Lynd Company Syndicator: Paramount Financial Group, Inc.

PUBLIC COMMENT²

From Citizens:	From Legislators or Local Officials:
# in Support: 0	Sen. Frank L. Madla, District 19 - NC
# in Opposition: 0	Rep. Robert Puente, District 119 - NC
	Mayor Ed Garza - S
	Edward D. Garza, Mayor of San Antonio; Consistent with the local Consolidated Plan.

* Development has 4 Employee Occupied Units.

1. Gross Income less Vacancy

2. NC - No comment received, O - Opposition, S - Support

CONDITION(S) TO COMMITMENT

- 1. Per §49.7(i)(6) of the Qualified Allocation Plan and Rules, all Tax Exempt Bond Project Applications “must provide an executed agreement with a qualified service provider for the provision of special supportive services that would otherwise not be available for the tenants. The provision of such services will be included in the Declaration of Land Use Restrictive Covenants (“LURA”).”

DEVELOPMENT'S SELECTION BY PROGRAM MANAGER & DIVISION DIRECTOR IS BASED ON:

Score Utilization of Set-Aside Geographic Distrib. Tax Exempt Bond. Housing Type

Other Comments including discretionary factors (if applicable).

Charles E. Nwaneri, LIHTC Co-Manager

Date

David Burrell, Director of Housing Programs

Date

DEVELOPMENT'S SELECTION BY EXECUTIVE AWARD AND REVIEW ADVISORY COMMITTEE IS BASED ON:

Score Utilization of Set-Aside Geographic Distrib. Tax Exempt Bond Housing Type

Other Comments including discretionary factors (if applicable)._____

Edwina P. Carrington, Executive Director
Chairman of Executive Award and Review Advisory Committee

Date

TDHCA Board of Director's Approval and description of discretionary factors (if applicable).

Chairperson Signature: _____

Michael E. Jones, Chairman of the Board

Date

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTI FAMILY CREDIT UNDERWRITING ANALYSIS**

DATE: November 4, 2002 **PROGRAM:** 4% LIHTC **FILE NUMBER:** 02445

DEVELOPMENT NAME

Saddlebrook Apartments

APPLICANT

Name: American Opportunity for Housing- Saddlebrook Apartments, L.P. **Type:** For Profit Non-Profit Municipal Other

Address: 2161 NW Military Highway, Suite 111 **City:** San Antonio **State:** TX

Zip: 78213 **Contact:** David Starr **Phone:** (210) 341-8097 **Fax:** (210) 341-8593

PRINCIPALS of the APPLICANT

Name: American Opportunity for Housing- Saddlebrook Apartments, L.L.C. **(%):** 0.01 **Title:** Managing General Partner

Name: Paramount Financial Group **(%):** 99.99 **Title:** Limited Partner

Name: American Opportunity for Housing, Inc. **(%):** N/A **Title:** Sole member of MGP

Name: David Starr & Associates, Inc. **(%):** N/A **Title:** President of AOH

GENERAL PARTNER

Name: American Opportunity for Housing- Saddlebrook Apartments, L.L.C. **Type:** For Profit Non-Profit Municipal Other

Address: 2161 NW Military Highway, Suite 111 **City:** San Antonio **State:** TX

Zip: 78213 **Contact:** David Starr **Phone:** (210) 341-8097 **Fax:** (210) 341-8593

PROPERTY LOCATION

Location: 4032 East Southcross Boulevard QCT DDA

City: San Antonio **County:** Bexar **Zip:** 78222

REQUEST

<u>Amount</u>	<u>Interest Rate</u>	<u>Amortization</u>	<u>Term</u>
\$577,885	N/A	N/A	N/A
Other Requested Terms: Annual ten-year allocation of low-income housing tax credits			
Proposed Use of Funds: Acquisition/ Rehab			

SITE DESCRIPTION

Size: 17.767 acres 773,931 square feet **Zoning/ Permitted Uses:** MF-33, Multifamily District

Flood Zone Designation: Zone X **Status of Off-Sites:** Fully improved

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS**

DESCRIPTION of IMPROVEMENTS

Total Units: 412 **# Rental Buildings:** 54 **# Common Area Bldgs:** 7 **# of Floors:** 2 **Age:** 27 yrs **Vacant:** 50 at 09/ 16/ 2002

Number	Bedrooms	Bathrooms	Size in SF
28	Efficiency	1	387
47	1	1	451
46	1	1	610
88	1	1	700
15	1	1	762
42	2	1	855
50	2	1.5	900
40	2	2	900
22	2	1.5	1,064
34	3	2	1,200

Net Rentable SF: 313,681 **Av Un SF:** 761 **Common Area SF:** 13,823 **Gross Bldg SF** 327,504
Property Type: Multifamily SFR Rental Elderly Mixed Income Special Use

CONSTRUCTION SPECIFICATIONS

STRUCTURAL MATERIALS

Wood frame on a post-tensioned concrete slab on grade, 40% brick veneer/60% Hardiplank siding exterior wall covering, drywall interior wall surfaces, composite shingle roofing

APPLIANCES AND INTERIOR FEATURES

Carpeting & vinyl flooring, range & oven, hood & fan, garbage disposal, dishwasher, refrigerator, tile tub/shower, ceiling fans, cable, laminated counter tops, individual water heaters

ON-SITE AMENITIES

Two community buildings, daycare center, four swimming pools, tennis & basketball courts, equipped playground, five laundry facilities, beauty salon, storage units, perimeter fencing

Uncovered Parking: 207 spaces **Carpports:** 364 spaces **Garages:** 0 spaces

OTHER SOURCES of FUNDS

BONDS/INTERIM to PERMANENT FINANCING

Source: Newman Financial Services, Inc. **Contact:** Paul Weissman

Principal Amount: \$12,000,000 **Interest Rate:** Minimum rate of 7.0%

Additional Information: A spread of 150 basis points over the 30-year "A"-rated municipal housing bond index.
The bonds will be issued by the Bexar County Housing Finance Corporation & purchased by Newman Financial Services, Inc.

Amortization: 30 yrs **Term:** 31 yrs **Commitment:** None Firm Conditional

Annual Payment: \$958,036 **Lien Priority:** 1st **Commitment Date** 9/ 30/ 2002

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS**

SELLER PERMANENT FINANCING

Source: Southcross Villas, Ltd. **Contact:** Jay Monttice
Principal Amount: \$800,000 **Interest Rate:** 7.5%
Additional Information: Seller-financed tax-exempt note subordinated to any other financing. Principal and interest payments due semi-annually.
Amortization: 35 yrs **Term:** 35 yrs **Commitment:** None Firm Conditional
Annual Payment: \$64,727 **Lien Priority:** 2nd **Commitment Date** 08/ 15/ 2002

LIHTC SYNDICATION

Source: Paramount Financial Group, Inc. **Contact:** Joel Hauenstein
Address: 3825 Columbus Road S.W., Bldg. F **City:** Granville
State: OH **Zip:** 43023 **Phone:** (740) 587-4150 **Fax:** (740) 587-2596
Net Proceeds: \$4,622,621 **Net Syndication Rate** (per \$1.00 of 10-yr LIHTC) 80¢
Commitment None Firm Conditional **Date:** 08/ 16/ 2002
Additional Information: Commitment letter reflects proceeds of \$4,383,303 based on credits of \$5,479,680

APPLICANT EQUITY

Amount: \$210,527 **Source:** Deferred developer fee

VALUATION INFORMATION

APPRAISED VALUE

Land Only: \$1,050,000 **Date of Valuation:** 9/ 19/ 2002
Existing Building: as is \$13,150,000
Total: \$14,200,000
Associated National Appraisal
Appraiser: Services, Inc. **City:** Houston **Phone:** (281) 752-5900

ASSESSED VALUE

Land: \$1,062,300 **Assessment for the Year of:** 2002
Building: \$3,713,400 **Valuation by:** Bexar County Appraisal District
Total Assessed Value: \$4,775,700

EVIDENCE of SITE or PROPERTY CONTROL

Type of Site Control: Purchase and sale agreement
Contract Expiration Date: 12/ 31/ 2002 **Anticipated Closing Date:** 12/ 31/ 2002
Acquisition Cost: \$ 10,500,000 **Other Terms/Conditions:** \$40,000 earnest money
Seller: Southcross Villas, Ltd. **Related to Development Team Member:** No

REVIEW of PREVIOUS UNDERWRITING REPORTS

No previous reports.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS**

PROPOSAL and DEVELOPMENT PLAN DESCRIPTION

Description: Saddlebrook Apartments is a proposed acquisition and rehabilitation development of 412 units of affordable housing located in southeast San Antonio. The development was built in three phases from 1972 to 1976 and is comprised of 54 residential buildings with 28 efficiency units, 194 one-bedroom units, 156 two-bedroom units, and 34 three-bedroom units.

The apartment buildings are distributed evenly throughout the site, with two community buildings, a daycare center, four swimming pools, tennis and basketball courts, playground, 91 storage units, and five laundry facilities located throughout the development.

Development Plan: The buildings are currently 16% vacant and in fair condition according to the appraiser. The architect's scope of work includes repair of asphalt parking lot, minor pool repair, replacement of metal gutters, repair to stucco areas, removal and replacement of rotten wood siding, fascia, soffits, trim and balconies, and replacement of numerous toilets, sinks, furnaces, floor tile, countertops, ranges, refrigerators, and dishwashers.

Supportive Services: The Applicant has contracted with American Opportunity for Housing, Inc. to provide the following supportive services to tenants: a computer learning center, senior programs, and other services via a joint venture between American Opportunity for Housing, Inc. and Catholic Charities of San Antonio. These services will be provided at no cost to tenants. The contract requires the Applicant to provide, furnish, and maintain facilities in the community building for provision of the services, and to pay an annual fee of \$2,500 for these support services. The support service provider will also offer child daycare services, the cost of which to the tenant, if any, will be determined at a later date.

Schedule: The Applicant anticipates construction to begin in February of 2003 and to be completed, placed in service, and substantially leased-up in February of 2004.

POPULATIONS TARGETED

Income Set-Aside: The Applicant has elected the 40% at 60% or less of area median gross income (AMGI) set-aside, although as a Priority 2 private activity bond lottery development 100% of the units must have rents restricted to be affordable to households at or below 60% of AMGI.

Special Needs Set-Asides: There are no plans to reserve units exclusively for special needs tenants, but according to the development group the development plan addresses and conforms to the required ADA compliance issues.

Compliance Period Extension: The intended length of the compliance period was not specified in the submitted application however all LIHTC funded developments have a minimum 30 year affordability period.

MARKET HIGHLIGHTS

A market feasibility study dated September 19, 2002 was prepared by Mark C. Temple and highlighted the following findings:

Definition of Market/Submarket : "The primary or defined market area for the Saddlebrook Apartments is considered South San Antonio and is described by the following farthest boundaries: north - Interstate Highway 10, south - Interstate Highway 410, east - Interstate Highway 410, and west - Interstate Highway 35. In addition, it is viewed a very strong secondary market exists due to the site's proximity to the remaining San Antonio area." (p. I-2)

Total Local/Submarket Demand for Rental Units: "Upon calculating the income qualification factor to the annual demand figure of 29,413 units, it is then projected there is a total rental demand of 10,030 LIHTC rental units within the subject market area." (p. IV-3)

ANNUAL INCOME-ELIGIBLE SUBMARKET DEMAND SUMMARY		
Type of Demand	Units of Demand	% of Total Demand
Household Growth	27	1%
Resident Turnover	10,003	99%
TOTAL ANNUAL DEMAND	10,030	100%

Ref: p. ES-6, 7

TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS

Capture Rate: “Based upon the income qualification banding methodology, the 412 LIHTC units of the apartment project represents a 4.1% capture rate of all income-appropriate rental households within the market area, depending on management’s criteria for qualifying potential renters.” (p. ES-7) The market analyst did not include the 186-tax credit unit Costa Dorada Apartments (2000 9% LIHTC #00030) in the calculation; the Underwriter included this property to conclude a concentration capture rate of 5.4%. In addition the Development is currently primarily occupied at 85%.

Local Housing Authority Waiting List Information: “Currently, all of the affordable apartment projects maintain a 100% occupancy level with a waiting list.” (p. III-33)

Market Rent Comparables: The market analyst surveyed eight comparable apartment projects totaling 1,792 units in the market area. (p. III-1)

RENT ANALYSIS (net tenant-paid rents)					
Unit Type (60%)	Proposed	Program Max	Differential	Market*	Differential
Efficiency (367 sf)	\$405	\$456	-\$51	\$360	+\$45
1-Bedroom (451 sf)	\$415	\$480	-\$65	\$453	-\$38
1-Bedroom (610 sf)	\$435	\$480	-\$45	\$453	-\$18
1-Bedroom (700 sf)	\$465	\$480	-\$15	\$453	+\$12
1-Bedroom (762 sf)	\$480	\$480	\$0	\$453	+\$27
2-Bedroom (855 sf)	\$525	\$573	-\$48	\$577	-\$52
2-Bedroom (900 sf)	\$540	\$573	-\$33	\$577	-\$37
2-Bedroom (900 sf)	\$555	\$573	-\$18	\$577	-\$22
2-Bedroom (1,064 sf)	\$570	\$573	-\$3	\$577	-\$7
3-Bedroom (1,200 sf)	\$660	\$660	\$0	\$763	-\$103

(NOTE: Differentials are amount of difference between proposed rents and program limits and average market rents, e.g., proposed rent =\$500, program max =\$600, differential = -\$100).

*Ref: p. III-1

The Market Analyst indicates that the average rent per square foot in the Market Area is \$.85 for efficiencies, \$.76 for one-bedrooms, \$.66 for two-bedrooms and \$.57 for three-bedrooms. This complicates the discussion of what the maximum achievable rent should be for the subject.

Submarket Vacancy Rates: “The occupancy level of the market area is presently 95.8%.” (p. III-1)

Absorption Projections: “Present absorption trends of apartment projects located in the South San Antonio Market Area range from 15 to 20 units per month.” (p. ES-2)

Known Planned Development: “There has been only one apartment project developed in the South San Antonio Market Area. The Kelly Heights Apartments, built in 2000, consists of 38 one bedroom apartment units. The apartment project maintains a 97 to 100% occupancy level. However, the Costa Dorado Apartments just recently began construction. The apartment project consists of a total of 248 units with 186 units designated tax credit units” (p. III-31)

The Underwriter found the market study provided sufficient information on which to base a funding recommendation.

SITE and NEIGHBORHOOD CHARACTERISTICS

Location: The site is a irregularly-shaped parcel located in the southeast area of San Antonio, approximately six miles from the central business district. The site is situated on the south side of East Southcross Boulevard.

Population: The estimated 2002 population of South San Antonio’s market area was 257,853 and is expected to increase by 1% to approximately 260,314 by 2007. Within the primary market area there were estimated to be 84,380 households in 2002.

Adjacent Land Uses: Land uses in the overall area in which the site is located are predominantly commercial, vacant land, and single-family residential. Adjacent land uses include:

- **North:** single-family residential
- **South:** vacant land and single-family residential

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS**

- **East:** commercial and vacant land
- **West:** commercial and vacant land

Site Access: Access to the property is from the east or west along East Southcross Boulevard. The development has four entries, all on the north side from East Southcross. Interstate Highway 37, which bisects the City of San Antonio in a north-south direction, is located approximately three miles west of the apartment project, provides connections to all other major roads serving the San Antonio area.

Public Transportation: Public transportation to the area is provided by VIA Metropolitan Transit bus system.

Shopping & Services: Accessibility to supportive retail/service facilities within the immediate South San Antonio Market Area is considered excellent along the corridors of East Southcross Boulevard, South New Braunfels Avenue, Goliad Road, Military Drive, and south W. W. White Road. Retail/service facilities along these major traffic corridors include grocery stores, drug stores, restaurants, financial institutions and multi-purpose stores.

Site Inspection Findings: TDHCA staff performed a site inspection on October 30, 2002 and found the property to be acceptable for the proposed rehabilitation. The inspector noted that most units were in average condition, although some walls were patched and some interior doors had holes.

HIGHLIGHTS of SOILS & HAZARDOUS MATERIALS REPORT(S)

A Phase I Environmental Site Assessment report dated September 25, 2002 was prepared by Property Condition Assessment Consultants, Inc. (PCA) and contained the following findings and recommendations:

- “A review of non-scope items concludes that asbestos-containing materials (ACM) have been identified in the floor tile and sprayed-on ceiling texture of the units. The identified ACM can be maintained in place with the existing Asbestos Operations and Maintenance (O&M) Program. PCA recommends the continued adherence to the existing Asbestos O&M Program to manage the ACM in place.”
- “...no other recognized environmental conditions were identified and no further investigation is recommended at this time.”

OPERATING PROFORMA ANALYSIS

Income: The Applicant’s rent projections use the maximum 2002 rent limits on the larger one-, two- and three-bedroom units, but have used lower rent amounts on the smaller units. The Underwriter adjusted the rents of the 610-SF one-bedroom units and the 855-SF two-bedroom units upward to the average market per square foot rents as concluded by the market analyst, and raised the rents on the 700-SF one-bedroom and 900-SF two-bedroom units to the program maximum rents as these square foot rents were below the market per foot rents. These rents should be achievable according to the market analyst, especially as the subject will be newly renovated. The net effect of these rent increases is an increase of \$63,522 in potential gross rent. The Applicant’s estimates of secondary income and vacancy and collection losses are in line with TDHCA underwriting guidelines. Due to the rent adjustments described above the Underwriter’s effective gross income estimate exceeds the Applicant’s by \$58,759 or 3%.

Expenses: The Applicant’s total (property tax-exempt) expense estimate of \$2,565 per unit is 8.9% lower than the Underwriter’s adjusted TDHCA database-derived estimate of \$2,793 per unit for comparably-sized developments. The Underwriter was able to use the property’s historical operating data in formulating line item expense estimates. The Applicant’s budget shows several line item estimates that deviate significantly when compared to the database averages, particularly general and administrative (\$44K lower), payroll (\$86K lower), repairs and maintenance (\$11K lower), utilities (\$16K higher), and water, sewer, and trash (\$8K higher). The Applicant, as a TDHCA-designated CHDO, is anticipating a total property tax exemption and provided a letter from the Bexar Appraisal District which stated that the property would be conditionally eligible, but the letter also explicitly stated that it did not represent a commitment. The Underwriter regards the exemption as likely and has included no property taxes in this analysis.

Conclusion: Although the Applicant’s estimated income and net operating income (NOI) are within 5% of the Underwriter’s estimates, the Applicant’s total estimated operating expense is inconsistent with the Underwriter’s expectations. Therefore, the Underwriter’s NOI will be used to evaluate debt service capacity. In both the Applicant’s and the Underwriter’s income and expense estimates there is sufficient net operating income to service the proposed first lien permanent mortgage at a debt coverage ratio that is within the

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS**

TDHCA underwriting guidelines of 1.10 to 1.25.

CONSTRUCTION COST ESTIMATE EVALUATION

Land Value: The site cost of \$1,050,000 included in the submitted cost breakdown is substantiated by the appraisal and is slightly lower than the tax assessed value \$1,062,300 . The indicated total acquisition price of \$10,500,000 is significantly lower than the appraised value of \$14,200,000, but is assumed to be reasonable since the acquisition is an arm's-length transaction.

Sitework Cost: The Applicant's claimed sitework costs of \$789 per are low due to the fact that this is a rehabilitation development.

Direct Construction Cost: The direct construction costs are substantiated by a detailed work write-up and are acceptable as submitted. The sitework and direct construction costs amount to \$6,221 per unit.

Ineligible Costs: The Applicant incorrectly included \$5,000 in housing consultant fees as an eligible cost outside of the Developers fee which was already at maximum levels; the Underwriter moved this fee to ineligible costs, resulting in an equivalent reduction in the Applicant's eligible basis.

Fees: The Applicant's contractor's for general requirements, general and administrative expenses, and profit are all within the maximums allowed by TDHCA guidelines based on the submitted budget. The Applicant's developer's fees are set at the maximums allowed by TDHCA guidelines, but with the reduction in eligible basis due to the misapplication of eligible basis discussed above now exceed the maximum by \$750.

Conclusion: Since the Underwriter has been able to verify the Applicant's projected costs to a reasonable margin, the Applicant's total cost breakdown, as adjusted, is used to calculate eligible basis and determine the LIHTC allocation. As a result an eligible basis of \$15,740,448 is used to determine a credit allocation of \$577,674 from this method. The resulting syndication proceeds will be used to compare to the gap of need using the Applicant's/ Underwriter's costs to determine the recommended credit amount.

FINANCING STRUCTURE ANALYSIS

The Applicant intends to finance the development with four types of financing from four sources: a bond-financed interim to permanent loan, a seller-financed loan, syndicated LIHTC equity, and deferred developer's fees.

Bonds and Conventional Interim to Permanent Loan: The development will receive tax-exempt private activity mortgage revenue bonds in the amount of \$12,000,000, to be issued by Bexar County Housing Finance Corporation. Newman Financial Services, Inc. has proposed to purchase the bonds and extend an interim to permanent loan in the same amount. The terms include a minimum interest rate of 7%, with the rate calculated with a spread of 150 basis points over the 30-year "A"-rated municipal housing bond index. The commitment letter indicated a term of 12 months for the construction portion and 30 years for the permanent, with an amortization period of 30 years. The commitment is conditioned upon a minimum debt coverage ratio of 1.15, \$300/unit in annual replacement reserves, abatement of property taxes, and acknowledges the subordinate seller financing discussed below.

Seller Financing: The second form of permanent financing will be provided by the seller, Southcross Villas, Ltd., in the amount of \$800,000 at an interest rate of 7.5% with principal and interest payments due semi-annually over the term of 35 years.

LIHTC Syndication: Paramount Financial Group, Inc has offered terms for syndication of the tax credits. The commitment letter shows net proceeds are anticipated to be \$4,383,303 based on a syndication factor of 80%. The funds would be disbursed in a four-phased pay-in schedule:

1. 70% upon the latest to occur of the LIHTC reservation, closing of the construction loan, receipt of a commitment for the permanent loan or admission to the partnership;
2. 15% upon the latest to occur of completion of construction, final closing of the permanent loan, or cost certification;
3. 7.5% upon the latest to occur of initial 90% occupancy, achievement of breakeven operating status, or receipt of IRS Forms 8609 for all buildings;
4. 7.5% upon the latest to occur of six consecutive months of a debt coverage ratio of at least 1.14 or initial 100% occupancy.

Deferred Developer's Fees: The Applicant's proposed deferred developer's fees of \$210,527 amount to 10% of the total fees.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS**

Financing Conclusions: Based on the Applicant's adjusted estimate of eligible basis, the LIHTC allocation should not exceed \$577,674 annually for ten years, resulting in syndication proceeds of approximately \$4,620,930. Based on the underwriting analysis, the Applicant's deferred developer fee will be reduced to \$212,218, which represents approximately 10% of the eligible fees and which should be repayable from cash flow within two years. Should the Applicant's final direct construction cost exceed the cost estimate used to determine credits in this analysis, ample additional developer's fee should be available to fund those development cost overruns.

REVIEW of ARCHITECTURAL DESIGN

The property is comprised of two-story walk-up structures with mixed wood siding and brick veneer exterior finish and a combination of flat and pitched roofs. The exterior elevations and unit floorplans are functional and typical of 1970's design. Each unit has an individual exterior entry.

IDENTITIES of INTEREST

- David Starr is president of the Applicant, the General Partner, and the sole owner of the General Partner (also the supportive services provider), and is a principal of the Developer.
- The Lynd Company will act as both the general contractor and property manager.

APPLICANT'S/PRINCIPALS' FINANCIAL HIGHLIGHTS, BACKGROUND, and EXPERIENCE

Financial Highlights:

- The Applicant and General Partner are single-purpose entities created for the purpose of receiving assistance from TDHCA and therefore have no material financial statements.
- The sole member of the General Partner, American Opportunity for Housing, Inc., submitted an unaudited financial statement as of August 16, 2002 reporting total assets of \$1.6M. No liabilities were reported, resulting in a net worth of \$1.6M.

Background & Experience:

- The Applicant and General Partner are new entities formed for the purpose of developing the project.
- The Developer has completed one 123-unit LIHTC/affordable housing development since 1996.

TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS

SUMMARY OF SALIENT RISKS AND ISSUES

- The Applicant's estimated income and operating expenses are more than 5% outside of the Underwriter's verifiable ranges.
- Significant environmental risk exists regarding asbestos-containing materials (ACM) have been identified in the floor tile and sprayed-on ceiling texture of the units.

RECOMMENDATION

- RECOMMEND APPROVAL OF AN LIHTC ALLOCATION NOT TO EXCEED \$577,674 ANNUALLY FOR TEN YEARS.

Underwriter:

Carl Hoover

Date: November 4, 2002

Credit Underwriting Supervisor:

Jim Anderson

Date: November 4, 2002

Director of Credit Underwriting:

Tom Gouris

Date: November 4, 2002

MULTIFAMILY FINANCIAL ASSISTANCE REQUEST: Comparative Analysis

Saddlebrook Apartments, San Antonio, LIHTC #02445

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Net Rent per Unit	Rent per Month	Rent per SF	Tot Pd Util	Wtr, Swr, Trsh
<TC (60%)	28	Eff	1	367	\$484	\$360	\$10,080	\$0.98	\$28.16	\$23.02
<TC (60%)	47	1	1	451	519	415	19,505	0.92	39.40	24.82
<TC (60%)	46	1	1	610	519	464	21,326	0.76	39.40	24.82
TC (60%)	86	1	1	700	519	480	41,246	0.69	39.40	24.82
EO	2	1	1	700		0	0	0.00	39.40	24.82
TC (60%)	15	1	1	762	519	480	7,194	0.63	39.40	24.82
<TC (60%)	40	2	1	855	624	564	22,572	0.66	51.24	29.80
EO	2	2	1	855		0	0	0.00	51.24	29.80
TC (60%)	50	2	1.5	900	624	573	28,638	0.64	51.24	29.80
TC (60%)	40	2	2	900	624	573	22,910	0.64	51.24	29.80
TC (60%)	22	2	1.5	1,064	624	573	12,601	0.54	51.24	29.80
TC (60%)	34	3	2	1,200	720	660	22,447	0.55	59.79	34.36
TOTAL:	412		AVERAGE:	761	\$567	\$506	\$208,518	\$0.66	\$44.74	\$27.35

INCOME Total Net Rentable Sq Ft: 313,681

POTENTIAL GROSS RENT
 Secondary Income Per Unit Per Month: \$10.00
 Other Support Income: (describe)

POTENTIAL GROSS INCOME
 Vacancy & Collection Loss % of Potential Gross Income: -7.50%
 Employee or Other Non-Rental Units or Concessions

EFFECTIVE GROSS INCOME

EXPENSES	% OF RGI	PER UNIT	PER SQ FT
General & Administrative	4.84%	\$278	\$0.36
Management	5.00%	286	0.38
Payroll & Payroll Tax	14.11%	809	1.06
Repairs & Maintenance	6.78%	388	0.51
Utilities	2.39%	137	0.18
Water, Sewer, & Trash	5.73%	328	0.43
Property Insurance	3.32%	190	0.25
Property Tax 2.873865	0.00%	0	0.00
Reserve for Replacements	5.24%	300	0.39
Other: spt svcs, compl. fees	1.34%	77	0.10
TOTAL EXPENSES	48.76%	\$2,793	\$3.67
NET OPERATING INC	51.24%	\$2,936	\$3.86

NET OPERATING INC

DEBT SERVICE
 Newman Financial Services 40.59% \$2,325 \$3.05
 Seller Financing 2.74% \$157 \$0.21
 Additional Financing 0.00% \$0 \$0.00
 NET CASH FLOW 7.91% \$453 \$0.60

AGGREGATE DEBT COVERAGE RATIO
 ALTERNATIVE DEBT COVERAGE RATIO

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT
Acquisition Cost (site or bldg)		59.55%	\$25,485	\$33.47
Off-Sites		0.00%	0	0.00
Sitework		1.84%	789	1.04
Direct Construction		12.69%	5,432	7.13
Contingency 5.00%		0.73%	311	0.41
General Req'ts 6.00%		0.87%	373	0.49
Contractor's G & J 2.00%		0.29%	124	0.16
Contractor's Prof: 6.00%		0.87%	373	0.49
Indirect Construction		0.43%	186	0.24
Ineligible Costs		2.44%	1,044	1.37
Developer's G & A 2.00%		1.55%	664	0.87
Developer's Profit 13.00%		10.09%	4,319	5.67
Interim Financing		6.30%	2,696	3.54
Reserves		2.34%	1,000	1.31
TOTAL COST		100.00%	\$42,797	\$56.21
Recap-Hard Construction Costs		17.30%	\$7,403	\$9.72

SOURCES OF FUNDS

Newman Financial Services 68.06% \$29,126 \$38.26
 Seller Financing 4.54% \$1,942 \$2.55
 LIHTC Syndication Proceeds 26.22% \$11,220 \$14.74
 Deferred Developer Fees 1.19% \$511 \$0.67
 Additional (excess) Funds Req'd 0.00% (\$2) (\$0.00)
 TOTAL SOURCES

	TDHCA	APPLICANT		
POTENTIAL GROSS RENT	\$2,502,222	\$2,438,700		
Secondary Income	49,440	49,440	\$10.00	Per Unit Per Month
Other Support Income: (describe)	0	0		
POTENTIAL GROSS INCOME	\$2,551,662	\$2,488,140		
Vacancy & Collection Loss	(191,375)	(186,612)	-7.50%	of Potential Gross Rent
Employee or Other Non-Rental Units or Concessions	0	0		
EFFECTIVE GROSS INCOME	\$2,360,287	\$2,301,528		
General & Administrative	\$114,345	\$70,580	\$0.23	\$171 3.07%
Management	118,014	115,076	0.37	279 5.00%
Payroll & Payroll Tax	333,144	247,200	0.79	600 10.74%
Repairs & Maintenance	160,019	170,980	0.55	415 7.43%
Utilities	56,410	72,100	0.23	175 3.13%
Water, Sewer, & Trash	135,201	143,300	0.46	348 6.23%
Property Insurance	78,420	82,400	0.26	200 3.58%
Property Tax	0	0	0.00	0 0.00%
Reserve for Replacements	123,600	123,600	0.39	300 5.37%
Other: spt svcs, compl. fees	31,700	31,700	0.10	77 1.38%
TOTAL EXPENSES	\$1,150,853	\$1,056,936	\$3.37	\$2,565 45.92%
NET OPERATING INC	\$1,209,434	\$1,244,592	\$3.97	\$3,021 54.08%
DEBT SERVICE				
Newman Financial Services	\$958,036	\$958,036	\$3.05	\$2,325 41.63%
Seller Financing	64,727	64,727	\$0.21	\$157 2.81%
Additional Financing	0	0	\$0.00	\$0 0.00%
NET CASH FLOW	\$186,671	\$221,829	\$0.71	\$538 9.64%
AGGREGATE DEBT COVERAGE RATIO	1.18	1.22		
ALTERNATIVE DEBT COVERAGE RATIO	1.18			

	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% of TOTAL
Acquisition Cost (site or bldg)	\$10,500,000	\$10,500,000	\$33.47	\$25,485	59.55%
Off-Sites	0	0	0.00	0	0.00%
Sitework	325,136	325,136	1.04	789	1.84%
Direct Construction	2,237,802	2,237,802	7.13	5,432	12.69%
Contingency	128,147	128,147	0.41	311	0.73%
General Req'ts	153,776	153,776	0.49	373	0.87%
Contractor's G & J	51,259	51,259	0.16	124	0.29%
Contractor's Prof:	153,776	153,776	0.49	373	0.87%
Indirect Construction	76,500	76,500	0.24	186	0.43%
Ineligible Costs	429,950	429,950	1.37	1,044	2.44%
Developer's G & A	273,747	273,847	0.87	665	1.55%
Developer's Profit	1,779,355	1,780,005	5.67	4,320	10.09%
Interim Financing	1,110,950	1,110,950	3.54	2,696	6.30%
Reserves	412,000	412,000	1.31	1,000	2.34%
TOTAL COST	\$17,632,398	\$17,633,148	\$56.21	\$42,799	100.00%
Recap-Hard Construction Costs	\$3,049,896	\$3,049,896	\$9.72	\$7,403	17.30%

	TDHCA	APPLICANT	RECOMMENDED
Newman Financial Services	\$12,000,000	\$12,000,000	\$12,000,000
Seller Financing	800,000	800,000	800,000
LIHTC Syndication Proceeds	4,622,621	4,622,621	4,620,930
Deferred Developer Fees	210,527	210,527	212,218
Additional (excess) Funds Req'd	(750)	0	(0)
TOTAL SOURCES	\$17,632,398	\$17,633,148	\$17,633,148

MULTIFAMILY FINANCIAL ASSISTANCE REQUEST (continued)
Saddlebrook Apartments, San Antonio, LIHTC #02445

DIRECT CONSTRUCTION COST ESTIMATE

Residential Cost Handbook

Average Quality Multiple Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost				
Adjustments				
Exterior Wall Finish				
Elderly				
Roofing				
Subfloor				
Floor Cover				
Porches/Balconies				
Plumbing				
Built-In Appliances				
Stairs/Fireplaces				
Floor Insulation				
Heating/Cooling				
Garages/Carports				
Comm &/or Aux Bldgs				
Other:				
SUBTOTAL				
Current Cost Multiplier				
Local Multiplier				
TOTAL DIRECT CONSTRUCTION COSTS				
Plans, specs, survy, bld prmts				
Interim Construction Interest				
Contractor's OH & Profit				
NET DIRECT CONSTRUCTION COSTS				

PAYMENT COMPUTATION

Primary	\$12,000,000	Amort	360
Int Rate	7.00%	DCR	1.26

Secondary	\$800,000	Amort	420
Int Rate	7.50%	Subtotal DCR	1.18

Additional		Amort	
Int Rate		Aggregate DCR	1.18

RECOMMENDED FINANCING STRUCTURE:

Primary Debt Service	\$958,036
Secondary Debt Service	64,727
Additional Debt Service	0
NET CASH FLOW	\$186,671

Primary	\$12,000,000	Amort	360
Int Rate	7.00%	DCR	1.26

Secondary	\$800,000	Amort	420
Int Rate	7.50%	Subtotal DCR	1.18

Additional		Amort	
Int Rate		Aggregate DCR	1.18

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE

	at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT		\$2,502,222	\$2,577,288	\$2,654,607	\$2,734,245	\$2,816,272	\$3,264,832	\$3,784,835	\$4,387,661	\$5,896,649
Secondary Income		49,440	50,923	52,451	54,024	55,645	64,508	74,782	86,693	116,509
Other Support Income: (d)		0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME		2,551,662	2,628,211	2,707,058	2,788,269	2,871,918	3,329,340	3,859,617	4,474,354	6,013,158
Vacancy & Collection Los		(191,375)	(197,116)	(203,029)	(209,120)	(215,394)	(249,700)	(289,471)	(335,577)	(450,987)
Employee or Other Non-Re		0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME		\$2,360,287	\$2,431,096	\$2,504,028	\$2,579,149	\$2,656,524	\$3,079,639	\$3,570,146	\$4,138,777	\$5,562,171
EXPENSES at 4.00%										
General & Administrative		\$114,345	\$118,919	\$123,676	\$128,623	\$133,768	\$162,749	\$198,009	\$240,908	\$356,603
Management		118,014	121,555	125,201	128,957	132,826	153,982	178,507	206,939	278,109
Payroll & Payroll Tax		333,144	346,469	360,328	374,741	389,731	474,167	576,897	701,884	1,038,959
Repairs & Maintenance		160,019	166,419	173,076	179,999	187,199	227,756	277,100	337,135	499,042
Utilities		56,410	58,667	61,013	63,454	65,992	80,289	97,684	118,848	175,924
Water, Sewer & Trash		135,201	140,609	146,233	152,082	158,166	192,433	234,124	284,847	421,644
Insurance		78,420	81,557	84,819	88,212	91,741	111,616	135,798	165,220	244,565
Property Tax		0	0	0	0	0	0	0	0	0
Reserve for Replacements		123,600	128,544	133,686	139,033	144,595	175,921	214,035	260,407	385,465
Other		31,700	32,968	34,287	35,658	37,085	45,119	54,894	66,787	98,861
TOTAL EXPENSES		\$1,150,853	\$1,195,707	\$1,242,320	\$1,290,760	\$1,341,101	\$1,624,033	\$1,967,050	\$2,382,974	\$3,499,172
NET OPERATING INCOME		\$1,209,434	\$1,235,389	\$1,261,709	\$1,288,389	\$1,315,422	\$1,455,606	\$1,603,096	\$1,755,803	\$2,062,998
DEBT SERVICE										
First Lien Financing		\$958,036	\$958,036	\$958,036	\$958,036	\$958,036	\$958,036	\$958,036	\$958,036	\$958,036
Second Lien		64,727	64,727	64,727	64,727	64,727	64,727	64,727	64,727	64,727
Other Financing		0	0	0	0	0	0	0	0	0
NET CASH FLOW		\$186,671	\$212,626	\$238,946	\$265,626	\$292,660	\$432,843	\$580,333	\$733,040	\$1,040,236
DEBT COVERAGE RATIO		1.18	1.21	1.23	1.26	1.29	1.42	1.57	1.72	2.02

Developer Evaluation

Compliance Status Summary

Project ID #: 02445 LIHTC 9% LIHTC 4%
Project Name: Saddlebrook Apartments HOME HTF
Project City: San Antonio BOND SECO

Housing Compliance Review

Project(s) in material non-compliance

No previous participation

Status of Findings (individual compliance status reports and National Previous Participation and Background Certification(s) available)

Projects Monitored by the Department

reviewed 1 # not yet monitored or pending review 0

of projects grouped by score 0-9: 1 10-19: 0 20-29: 0

Members of the development team have been disbarred by HUD

National Previous Participation Certification Received N/A

Non-Compliance Reported _____

Completed by Jo En Taylor **Completed on** 09/16/2002

Single Audit

Status of Findings (any outstanding single audit issues are listed below)

single audit not applicable no outstanding issues outstanding issues

Comments:

Completed by Lucy Trevino **Completed on** 09/16/2002

Program Monitoring

Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by Ralph Hendrickson **Completed on** 09/16/2002

Community Affairs Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by EEF **Completed on** _____

Housing Finance Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by _____ **Completed on** _____

Housing Programs Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by Clifford Hudson **Completed on** 10/24/2002

Multifamily Finance Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by Robbye Meyer **Completed on** 09/17/2002

Executive Director: _____ **Date Signed:** _____



LOW INCOME HOUSING TAX CREDIT PROGRAM
2002 LIHTC/TAX EXEMPT BOND DEVELOPMENT PROFILE AND BOARD SUMMARY
 Texas Department of Housing and Community Affairs

Development Name: **Gates of Capernum Apartments**

TDHCA#: 02451

DEVELOPMENT AND OWNER INFORMATION

Development Location: San Antonio QCT: N DDA: N TTC: N
 Development Owner: Gates of Capernum Apartments, Inc.
 General Partner(s): Gates of Capernum Apartments I, LLC, 100% Contact: Rowan Smith
 Construction Category: New
 Set-Aside Category: Tax Exempt Bond Bond Issuer: Bexar County HFC
 Development Type: Family

Annual Tax Credit Allocation Calculation

Applicant Request: \$585,289 Eligible Basis Amt: \$565,027 Equity/Gap Amt.: \$788,127
Annual Tax Credit Allocation Recommendation: \$565,027
 Total Tax Credit Allocation Over Ten Years: 5,650,270

PROPERTY INFORMATION

Unit and Building Information

Total Units: 248 LIHTC Units: 248 % of LIHTC Units: 100%
 Gross Square Footage: 236,071 Net Rentable Square Footage: 232,040
 Average Square Footage/Unit: 936
 Number of Buildings: 12
 Currently Occupied: N

Development Cost

Total Cost: \$18,017,088 Total Cost/Net Rentable Sq. Ft.: \$77.65

Income and Expenses

Effective Gross Income:¹ \$1,652,783 Ttl. Expenses: \$679,753 Net Operating Inc.: \$973,030
 Estimated 1st Year DCR: 1.07

DEVELOPMENT TEAM

Consultant: Texas Regional Asset Management Manager: Texas Regional Asset Management
 Attorney: Mike Pruitt Architect: The Clerkley Group
 Accountant: Novogradac & Company, LLP Engineer: Benchmark Engineering
 Market Analyst: Apartment Market Data Research Lender: Newman Financial Services, Inc.
 Contractor: Texas Regional Construction, Inc. Syndicator: The Richman Group Capital Corp.

PUBLIC COMMENT²

From Citizens:	From Legislators or Local Officials:
# in Support: 0	Sen. Jeff Wentworth, District 25 - NC
# in Opposition: 0	Rep. John Shields, District 122 - NC
	Mayor Ed Garza - NC
	Andrew W. Cameron, Housing and Community Development Director, City of San Antonio; Consistent with the local Consolidated Plan.

1. Gross Income less Vacancy
 2. NC - No comment received, O - Opposition, S - Support

CONDITION(S) TO COMMITMENT

1. Per §49.7(i)(6) of the Qualified Allocation Plan and Rules, all Tax Exempt Bond Project Applications “must provide an executed agreement with a qualified service provider for the provision of special supportive services that would otherwise not be available for the tenants. The provision of such services will be included in the Declaration of Land Use Restrictive Covenants (“LURA”).”
2. Receipt, review, and acceptance of a final letter from the taxing jurisdictions indicating that the Applicant will be exempt from paying real estate taxes.
3. Receipt, review, and acceptance of a commitment from the Applicant to provide at least one parking place per unit at no cost to tenants.
4. Receipt, review, and acceptance of a revised permanent loan commitment reflecting an annual debt service amount not to exceed \$884,005 or acceptance of a potential mandatory redemption of bonds to reduce debt service to this amount.
5. Should the terms of the proposed debt be altered, the previous condition should be re-evaluated.

DEVELOPMENT'S SELECTION BY PROGRAM MANAGER & DIVISION DIRECTOR IS BASED ON:

Score Utilization of Set-Aside Geographic Distrib. Tax Exempt Bond. Housing Type

Other Comments including discretionary factors (if applicable).

Charles E. Nwaneri, LIHTC Co-Manager

Date

David Burrell, Director of Housing Programs

Date

DEVELOPMENT'S SELECTION BY EXECUTIVE AWARD AND REVIEW ADVISORY COMMITTEE IS BASED ON:

Score Utilization of Set-Aside Geographic Distrib. Tax Exempt Bond Housing Type

Other Comments including discretionary factors (if applicable)._____

Edwina P. Carrington, Executive Director
Chairman of Executive Award and Review Advisory Committee

Date

TDHCA Board of Director's Approval and description of discretionary factors (if applicable).

Chairperson Signature: _____
Michael E. Jones, Chairman of the Board

Date

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTI FAMILY CREDIT UNDERWRITING ANALYSIS**

DATE: November 4, 2002 **PROGRAM:** 4% LIHTC **FILE NUMBER:** 02451

DEVELOPMENT NAME

Gates of Capernum Apartments

APPLICANT

Name: Gates of Capernum Apartments, Inc. **Type:** For Profit Non-Profit Municipal Other
Address: 16420 Park Ten Place, Suite 220 **City:** Houston **State:** Texas
Zip: 77084 **Contact:** Rowan Smith **Phone:** (281) 599-1627 **Fax:** (281) 599-1656

PRINCIPALS of the APPLICANT

Name: Gates of Capernum Apartments I, LLC **(%):** .01 **Title:** Managing General Partner
Name: Paramount Financial Group **(%):** 99.99 **Title:** Limited Partner
Name: Bozah International Ministries, Inc. **(%):** N/A **Title:** Manager of General Partner
Name: John Pitts **(%):** N/A **Title:** Pres. of Bozah International
Name: Texas Regional Properties, LLP **(%):** N/A **Title:** Developer
Name: Rowan Smith **(%):** N/A **Title:** Guarantor & owner of Developer

GENERAL PARTNER

Name: Gates of Capernum Apartments I, LLC **Type:** For Profit Non-Profit Municipal Other
Address: 16420 Park Ten Place, Suite 220 **City:** Houston **State:** Texas
Zip: 77084 **Contact:** Rowan Smith **Phone:** (281) 599-1627 **Fax:** (281) 599-1656

PROPERTY LOCATION

Location: 8611 Water's Edge Road QCT DDA
City: San Antonio **County:** Bexar **Zip:** 78245

REQUEST

<u>Amount</u>	<u>Interest Rate</u>	<u>Amortization</u>	<u>Term</u>
\$585,289	N/A	N/A	N/A

Other Requested Terms: Annual ten-year allocation of low-income housing tax credits
Proposed Use of Funds: New construction **Set-Aside:** General Rural Non-Profit

SITE DESCRIPTION

Size: 12.564 acres 547,288 square feet **Zoning/ Permitted Uses:** C-3NA, Commercial Nonalcoholic Sales District, development conforms as proposed
Flood Zone Designation: Zone X **Status of Off-Sites:** Partially improved

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS**

LIHTC SYNDICATION

Source: Richman Capital Corporation **Contact:** Phillip Corbett
Address: 532 Page Street **City:** Stoughton
State: MA **Zip:** 02072 **Phone:** (781) 344-3151 **Fax:** (781) 344-2859
Net Proceeds: \$4,420,847 **Net Syndication Rate** (per \$1.00 of 10-yr LIHTC) 81.5¢
Commitment None Firm Conditional **Date:** 10/ 7/ 2002
Additional Information: Based upon credits of \$542,490 annually. Conditioned on bond/loan amount of \$11,700,000

APPLICANT EQUITY

Amount: \$462,587 **Source:** Deferred developer fee

VALUATION INFORMATION

ASSESSED VALUE

Land: \$273,617 **Assessment for the Year of:** 2002
Building: N/A **Valuation by:** Bexar County Appraisal District
Total Assessed Value: \$273,617 Total acreage 17.6280, valued at \$383,900.
Prorated for 12.564 acres.

EVIDENCE of SITE or PROPERTY CONTROL

Type of Site Control: Earnest money contract
Contract Expiration Date: 12/ 31/ 2002 **Anticipated Closing Date:** 12/ 31/ 2002
Acquisition Cost: \$ 788,395 **Other Terms/Conditions:** Bozah International Ministries, Inc. is the buyer
Seller: Cable Ranch, Ltd. **Related to Development Team Member:** No

REVIEW of PREVIOUS UNDERWRITING REPORTS

No previous reports.

PROPOSAL and DEVELOPMENT PLAN DESCRIPTION

Description: Gates of Capernum Apartments is a proposed new construction development of 248 units of affordable income housing located in west San Antonio. The development is comprised of 12 residential buildings as follows:

- Four Building Type A with 12 one-bedroom units and eight three-bedroom units;
- Two Building Type B with 24 two-bedroom units; and
- Six Building Type C with 12 two-bedroom units and eight three-bedroom units.

Based on the site plan the apartment buildings are distributed evenly throughout the site, with the community building, mailboxes, and swimming pool located near the entrance to the development. An 820-square foot laundry and maintenance building will be located near the community building. The 3,211-square foot community building plan includes the management office, a community room, television room, kitchen, and restrooms.

Supportive Services: The Applicant has contracted with Alamo Area Mutual Housing Association to provide the following supportive services to tenants: youth programs, community wellness, literacy, development and educational leadership, advice on county programs such as the food pantries, family counseling, rent and utility assistance, and educational facilities. These services will be provided at no cost to tenants. The contract requires the Applicant to provide, furnish, and maintain facilities in the community building for provision of the services, to pay \$17,035 the first year with increases not to exceed 3% annually,

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS**

plus \$0.50 per unit per month for these support services.

Schedule: The Applicant anticipates construction to begin in January of 2003, to be completed and placed in service in December of 2003, and to be substantially leased-up in November of 2004.

POPULATIONS TARGETED

Income Set-Aside: The Applicant has elected the 40% at 60% or less of area median gross income (AMGI) set-aside, although as a Priority 2 private activity bond lottery project 100% of the units must have rents restricted to be affordable to households at or below 60% of AMGI. All of the units will be reserved for low-income tenants.

Special Needs Set-Asides: The application indicated that only five units (2%) will be handicapped-accessible, however, the Applicant has signed the certification confirming that the development will meet minimum accessibility requirements under Section 504, Rehabilitation Act of 1973.

Compliance Period Extension: The intended length of the compliance period was not specified in the submitted application however all LIHTC developments are required to maintain a minimum 30 year affordability period.

MARKET HIGHLIGHTS

A market feasibility study dated September 17, 2002 was prepared by Apartment MarketData Research Services and highlighted the following findings:

Definition of Market/Submarket: The primary market area is comprised of an 84 square mile trade area in west San Antonio. The area's housing need, demand draw, natural and manmade barriers and the appropriate demographics of the area were applicable to the demand for rental units. (p. 27-28)

Total Local/Submarket Demand for Rental Units: "...between the years of 2002 to 2006, it can be assessed that the primary market area will require an additional 1,607 rental dwelling units." (p. 47)

ANNUAL INCOME-ELIGIBLE SUBMARKET DEMAND SUMMARY				
Type of Demand	Market Analyst		Underwriter	
	Units of Demand	% of Total Demand	Units of Demand	% of Total Demand
Household Growth	60	2.3%	54	2%
Resident Turnover	2,578	97.7%	2,266	98%
TOTAL ANNUAL DEMAND	2,638	100%	2,320	100%

Ref: p. 38

Capture Rate: The market analyst calculated a concentration capture rate of 21.9% based on total demand of 2,638 units and a supply of 578 low-income units. (p. 38-39) The Underwriter calculated a concentration capture rate based on 280 units at Eagle Ridge Apartments and 50 income-restricted units at Stablewood Farms. Eagle Ridge was awarded an allocation in 2002, while Stablewood Farms, with 252 units, opened in October 2002. All 50 of the income-restricted units are one-bedroom units. The remaining one-bedroom units, all the two-bedroom units, and all the three-bedroom units are market rate units with rental rates well above the subject's maximum allowable rents. Based on the revised supply of unstabilized comparable affordable units of 578 and a revised demand of 2,320, the Underwriter calculated a capture rate of 24.9%.

Market Rent Comparables: The market analyst surveyed eight comparable apartment projects totaling 1,912 units in the market area. (p. 82)

RENT ANALYSIS (net tenant-paid rents)					
Unit Type (% AMI)	Proposed	Program Max	Differential	Market	Differential
1-Bedroom (60%)	\$478	\$481	-\$3	\$658	-\$180
2-Bedroom (60%)	\$572	\$575	-\$3	\$764	-\$192
3-Bedroom (60%)	\$659	\$663	-\$4	\$795	-\$136

(NOTE: Differentials are amount of difference between proposed rents and program limits and average market rents, e.g., proposed rent =\$500, program max =\$600, differential = -\$100)

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Submarket Occupancy Rates: The current occupancy in the market area is 94.6%. (p. 77)

Absorption Projections: The development will absorb about 20 units per month. (p. 74)

Known Planned Development: The market analyst identified two properties in the primary market area as projects receiving an allocation since 2000 and not stabilized for 12 months. They are Eagle Ridge Apartments with 280 units and Stablewood Farms with 252 units. (p. 38)

The Underwriter found the market study provided sufficient information on which to base a funding recommendation.

SITE and NEIGHBORHOOD CHARACTERISTICS

Location: The site is a trapezoidally-shaped parcel located in the western area of San Antonio, approximately ten miles from the central business district. The site is situated on the north side of Water's Edge Drive.

Population: The estimated 2001 population of the primary market area was 136,734 and is expected to increase by 8% to approximately 147,794 by 2006. Also, there are estimated to be 46,811 households by 2006.

Adjacent Land Uses: Land uses in the overall area in which the site is located are predominantly mixed, consisting of vacant land, apartment complexes, retail, churches, and schools.

Site Access: Access to the property is from the east or west along Water's Edge Drive. The development has two main entries, both off of Water's Edge Drive. Access to Interstate Highway 410 is 0.4 miles east, which provides connections to all other major roads serving the San Antonio area.

Public Transportation: The availability of public transportation is unknown.

Shopping & Services: The site is within 0.6 miles of major grocery/pharmacies, shopping centers, a regional mall and a variety of other retail establishments and restaurants. Schools, churches, and hospitals and health care facilities are located within a short driving distance from the site.

Site Inspection Findings: The site has not been inspected by a TDHCA staff member, and receipt, review, and acceptance of an acceptable site inspection report is a condition of this report.

HIGHLIGHTS of SOILS & HAZARDOUS MATERIALS REPORT(S)

A Phase I Environmental Site Assessment report dated September 25, 2002 was prepared by Raba Kistner Consultants, Inc. and revealed no recognized environmental conditions involving the site.

OPERATING PROFORMA ANALYSIS

Income: The Applicant's rent projections are slightly lower than the maximum rents allowed under LIHTC guidelines. The difference is because the Underwriter used a more current version of the San Antonio Housing Authority's utility allowances. The Applicant's estimates of secondary income and vacancy and collection losses are in line with TDHCA underwriting guidelines. The site plan shows 216 open parking spaces and 150 covered parking spots, and the Applicant has verbally indicated an intention to charge for the covered parking spots although no carport rental income was included in the application. It is a condition of this report that the Applicant commit to provide at least one parking place per unit at no cost to tenants.

Expenses: The Applicant's total (property tax-exempt) expense estimate of \$2,443 per unit is 12% lower than the Underwriter's adjusted TDHCA database-derived estimate of \$2,770 per unit for comparably-sized developments. The Applicant's budget shows several line item estimates that deviate significantly when compared to the Underwriter's estimates, particularly payroll (\$74K lower), general and administrative (\$27K lower), insurance (\$23K higher), and, water, sewer and trash (\$21K higher). The Applicant is currently seeking a CHDO property tax exemption with the Bexar County Appraisal District, but to date only a conditional preliminary determination letter has been provided. Receipt, review, and acceptance of a confirmed exemption from the taxing jurisdiction is a condition of this report.

Conclusion: The Applicant's estimated operating expense and net operating income are not within 5% of the Underwriter's estimates. Therefore, the Underwriter's NOI will be used to evaluate debt service capacity. Due primarily to the difference in expenses, the Underwriter's estimated debt coverage ratio (DCR) of 1.04 is less than the program minimum standard of 1.10. Therefore, the maximum debt service for this project should be limited to \$884,005.

CONSTRUCTION COST ESTIMATE EVALUATION

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Land Value: Though significantly higher than the prorated assessed value, the site cost of \$790,395 (\$1.44/SF or \$62,909/acre) is assumed to be reasonable since the acquisition is an arm's-length transaction.

Sitework Cost: The Applicant's claimed sitework costs of \$6,500 per unit are the maximum allowable under TDHCA underwriting guidelines and are therefore considered reasonable compared to historical sitework costs for multifamily projects.

Direct Construction Cost: The Applicant's costs are 10.4% lower than the Underwriter's Marshall & Swift *Residential Cost Handbook*-derived estimate after all of the Applicant's additional justifications were considered. This would suggest that the Applicant's direct construction costs are understated.

Interim Financing Fees: The Underwriter reduced the Applicant's eligible interim financing fees by \$132,000 to reflect an apparent overestimation of eligible construction loan interest, to bring the eligible interest expense down to one year of fully drawn interest expense. This results in an equivalent reduction to the Applicant's eligible basis estimate. The Applicant also included as eligible \$135,000 for tax and/or bond counsel and \$320,000 in costs of bond underwriting and issuance, when only the portion attributable to the construction period is eligible. This issue was discussed with the Applicant and the Underwriter prorated these fees by including as eligible 2.5 years (the construction period) of the 32.5-year bond term. This amounted to \$420,000 in additional excess eligible basis that was adjusted out of the Applicant's eligible basis budget.

Fees: The Applicant's contractor's and developer's fees for general requirements, general and administrative expenses, and profit are all within the maximums allowed by TDHCA guidelines.

Conclusion: The Underwriter regards total costs to be understated by \$934K or 5.2%. This percentage exceeds the acceptable 5% margin of tolerance, and therefore the Underwriter's cost estimate is used to size the total sources of funds needed for the development. The Applicant's requested credit amount, as adjusted for the current applicable percentage, is less than the Underwriter's eligible basis tax credit calculation. Therefore, the Applicant's tax credit calculation, as adjusted, is used to establish the eligible basis method of determining the credit amount. As a result an eligible basis of \$15,395,840 is used to determine a credit allocation of \$565,027 from this method. The resulting syndication proceeds will be used to compare to the gap of need using the Underwriter's costs to determine the recommended credit amount.

FINANCING STRUCTURE ANALYSIS

The Applicant intends to finance the development with three types of financing from three sources: a conventional interim to permanent loan based on tax-exempt and taxable private activity mortgage revenue bond proceeds, syndicated LIHTC equity, and deferred developer's fees.

Bonds and Conventional Interim to Permanent Loan: The bonds are tax-exempt private activity mortgage revenue bonds to be issued by the Bexar County Housing Finance Corporation and placed through Newman Financial Services, Inc. The Applicant provided an executed loan commitment dated October 1, 2002 indicating that the aggregate face amount of the tax-exempt bonds is anticipated to be \$11,500,000, but shall not exceed 90% of the appraised value. The bonds will be amortized over 35 years at a fixed interest rate of 150 basis points over the 30-year Municipal Housing Bond Index, with a minimum rate of 6.95% which was used for this analysis. There are two consecutive terms totaling 32.5 years; the interim term is for 30 months while the permanent period is for 30 years. The bonds will be interest-only until the construction completion date. The Applicant subsequently provided an unexecuted loan term sheet from Newman with an estimated bond and loan amount of \$12,200,000, based on the development receiving a property tax exemption. The other loan terms remain unchanged from the earlier commitment.

LIHTC Syndication: The Richman Group Capital Corporation has offered terms for syndication of the tax credits. The commitment letter shows net proceeds are anticipated to be \$4,420,847 based on a syndication factor of 81.5%. The funds would be disbursed in a three-phased pay-in schedule:

1. 80% paid either at closing or in monthly installments on a draw basis as needed for development costs;
2. 10% upon completion of construction and receipts of certificates of occupancy;
3. 10% upon the latest of achievement of breakeven operations, receipt of LIHTC cost certification, or receipt of IRS Forms 8609.

Deferred Developer's Fees: The Applicant's proposed deferred developer's fees of \$462,587 amount to 24% of the total fees.

Financing Conclusions: Based on the Applicant's adjusted eligible basis \$15,395,840, the LIHTC

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
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allocation should not exceed \$565,027 annually for ten years, resulting in syndication proceeds of approximately \$4,604,512. Based on the Underwriter's analysis and with a debt amount not to exceed \$11,594,643, the Applicant would have to defer \$1,817,933 or 93% of the developer fee, which should be repayable within eleven years. Since the Applicant's final direct construction cost are significantly less than the Underwriter's total cost estimate used to determine use of funds in this analysis, this additional developer and contractor's fees is anticipated to be required to fund the Underwriter's predicted development cost overruns.

REVIEW of ARCHITECTURAL DESIGN

The exterior elevations are functional and typical of current apartment design. The units are in mixed two- and three-story walk-up buildings, with mixed stone veneer and cement fiberboard exterior finish and pitched roofs. All units are of average size for market rate and LIHTC units, and have covered patios or balconies with small outdoor storage closets. Each unit has a semi-private exterior entry off an interior breezeway that is shared with three other units.

IDENTITIES of INTEREST

The Developer, General Partner, General Contractor, and Property Manager are all related entities. These are common relationships for LIHTC-funded developments.

APPLICANT'S/PRINCIPALS' FINANCIAL HIGHLIGHTS, BACKGROUND, and EXPERIENCE

Financial Highlights:

- The Applicant and General Partner are single-purpose entities created for the purpose of receiving assistance from TDHCA and therefore have no material financial statements.
- Bozarah International Ministries, Inc., owner of the General Partner, submitted an unaudited financial statement in October 2002 and with assets totaling \$228,373 and no liabilities, resulting in a net worth of \$228,373.
- The Developer, Texas Regional Properties, LLP, submitted an unaudited financial statement on October 9, 2002 reporting total assets of \$4.9M and consisting of \$274K in cash, \$4.5M in other current assets, and \$80K in long term assets. Liabilities totaled \$60K, resulting in a net worth of \$4.8M.
- P. Rowan Smith is anticipated to be guarantor of the development and submitted unaudited financials as of August 31, 2002.

Background & Experience:

- The Applicant and General Partner are new entities formed for the purpose of developing the project.
- The owner of the General Partner, Bozarah International Ministries, has completed two LIHTC housing developments totaling 204 units since 2000.
- The Developer, Texas Regional Properties, LLP, has completed four LIHTC housing developments totaling 604 units since 1998.

SUMMARY OF SALIENT RISKS AND ISSUES

- The Applicant's operating expenses and operating proforma are more than 5% outside of the Underwriter's verifiable ranges.
- The Applicant's development costs differ from the Underwriter's verifiable estimate by more than 5%.
- The recommended amount of deferred developer fee cannot be repaid within ten years, and any amount unpaid past ten years would be removed from eligible basis.
- The significant financing structure changes being proposed have not been reviewed and accepted by the Applicant, lenders, and syndicators, and acceptable alternative structures may exist.

RECOMMENDATION

RECOMMEND APPROVAL OF AN LIHTC ALLOCATION NOT TO EXCEED \$565,027

TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS

ANNUALLY FOR TEN YEARS, SUBJECT TO CONDITIONS.

CONDITIONS

1. Receipt, review, and acceptance of a satisfactory TDHCA site inspection report.
2. Receipt review, and acceptance of a final letter from the taxing jurisdictions indicating that the Applicant will be exempt from paying real estate taxes.
3. Receipt, review, and acceptance of a commitment from the Applicant to provide at least one parking place per unit at no cost to tenants;
4. Receipt, review, and acceptance of a revised permanent loan commitment reflecting an annual debt service amount not to exceed \$884,005 or acceptance of a potential mandatory redemption of bonds to reduce debt service to this amount.
5. Should the terms of the proposed debt be altered, the previous condition should be re-evaluated.

Credit Underwriter:	_____ <i>Mark Fugina</i>	Date: <u>November 4, 2002</u>
Credit Underwriting Supervisor:	_____ <i>Jim Anderson</i>	Date: <u>November 4, 2002</u>
Director of Credit Underwriting:	_____ <i>Tom Gouris</i>	Date: <u>November 4, 2002</u>

MULTIFAMILY FINANCIAL ASSISTANCE REQUEST: Comparative Analysis

Gates of Capernum Apartments, San Antonio, 4% LIHTC #02451

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Net Rent per Unit	Rent per Month	Rent per SF	Tnt Pd Util	Wtr, Swr, Trsh
TC (60%)	48	1	1	665	\$519	\$481	\$23,108	\$0.72	\$37.58	\$24.82
TC (60%)	120	2	2	901	624	\$575	69,012	0.64	48.90	29.80
TC (60%)	80	3	2	1,150	720	\$663	53,059	0.58	56.76	34.36
TOTAL:	248		AVERAGE:	936	\$635	\$585	\$145,179	\$0.63	\$49.24	\$30.31

INCOME Total Net Rentable Sq Ft: 232,040

POTENTIAL GROSS RENT

Secondary Income Per Unit Per Month: \$15.00

Other Support Income:

POTENTIAL GROSS INCOME

Vacancy & Collection Loss % of Potential Gross Income: -7.50%

Employee or Other Non-Rental Units or Concessions

EFFECTIVE GROSS INCOME

	TDHCA	APPLICANT		
POTENTIAL GROSS RENT	\$1,742,152	\$1,731,648		
Secondary Income	44,640	44,640	\$15.00	Per Unit Per Month
Other Support Income:	0	0		
POTENTIAL GROSS INCOME	\$1,786,792	\$1,776,288		
Vacancy & Collection Loss	(134,009)	(133,224)	-7.50%	of Potential Gross Rent
Employee or Other Non-Rental Units or Concessions	0	0		
EFFECTIVE GROSS INCOME	\$1,652,783	\$1,643,064		

EXPENSES

	% OF EGI	PER UNIT	PER SQ FT
General & Administrative	4.44%	\$296	\$0.32
Management	5.00%	333	0.36
Payroll & Payroll Tax	12.05%	803	0.86
Repairs & Maintenance	6.06%	404	0.43
Utilities	2.26%	151	0.16
Water, Sewer, & Trash	5.46%	364	0.39
Property Insurance	2.81%	187	0.20
Property Tax	3.025%	0	0.00
Reserve for Replacements	3.00%	200	0.21
Other Expenses: Security	0.05%	3	0.00
TOTAL EXPENSES	41.13%	\$2,741	\$2.93

NET OPERATING INC 58.87% \$3,924 \$4.19

DEBT SERVICE

	% OF EGI	PER UNIT	PER SQ FT
Newman Financial	56.28%	\$3,751	\$4.01
Compliance fees, spt svcs	1.50%	\$100	\$0.11
Additional Financing	0.00%	\$0	\$0.00
NET CASH FLOW	1.10%	\$73	\$0.08

	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% OF EGI
General & Administrative	\$73,444	\$46,000	\$0.20	\$185	2.80%
Management	82,639	82,150	0.35	331	5.00%
Payroll & Payroll Tax	199,144	125,000	0.54	504	7.61%
Repairs & Maintenance	100,153	90,000	0.39	363	5.48%
Utilities	37,371	24,000	0.10	97	1.46%
Water, Sewer, & Trash	90,194	111,000	0.48	448	6.76%
Property Insurance	46,408	70,000	0.30	282	4.26%
Property Tax	0	0	0.00	0	0.00%
Reserve for Replacements	49,600	49,600	0.21	200	3.02%
Other Expenses: Security	800	800	0.00	3	0.05%
TOTAL EXPENSES	\$679,753	\$598,550	\$2.58	\$2,414	36.43%
NET OPERATING INC	\$973,030	\$1,044,514	\$4.50	\$4,212	63.57%

AGGREGATE DEBT COVERAGE RATIO 1.02 1.10

BONDS ONLY DEBT COVERAGE RATIO 1.05

ALTERNATIVE BONDS ONLY DEBT COVERAGE RATIO 1.10

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT
Acquisition Cost (site or bldg)		4.39%	\$3,187	\$3.41
Off-Sites		0.00%	0	0.00
Sitework		8.95%	6,500	6.95
Direct Construction		50.00%	36,325	38.82
Contingency	4.30%	2.54%	1,843	1.97
General Req'ts	5.47%	3.23%	2,344	2.50
Contractor's G & A	1.52%	0.90%	651	0.70
Contractor's Prof.	5.47%	3.23%	2,344	2.50
Indirect Construction		3.96%	2,879	3.08
Ineligible Costs		3.45%	2,505	2.68
Developer's G & A	2.43%	1.94%	1,411	1.51
Developer's Profit	11.13%	8.88%	6,452	6.90
Interim Financing		7.02%	5,096	5.45
Reserves		1.53%	1,113	1.19
TOTAL COST		100.00%	\$72,650	\$77.65

Recap-Hard Construction Costs 68.83% \$50,006 \$53.45

	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% of TOTAL
Acquisition Cost (site or bldg)	\$790,395	\$790,395	\$3.41	\$3,187	4.63%
Off-Sites	0	0	0.00	0	0.00%
Sitework	1,612,000	1,612,000	6.95	6,500	9.44%
Direct Construction	9,008,654	8,075,000	34.80	32,560	47.27%
Contingency	457,000	457,000	1.97	1,843	2.68%
General Req'ts	581,220	581,220	2.50	2,344	3.40%
Contractor's G & A	161,500	161,500	0.70	651	0.95%
Contractor's Prof.	581,220	581,220	2.50	2,344	3.40%
Indirect Construction	714,000	714,000	3.08	2,879	4.18%
Ineligible Costs	621,199	621,199	2.68	2,505	3.64%
Developer's G & A	350,000	350,000	1.51	1,411	2.05%
Developer's Profit	1,600,000	1,600,000	6.90	6,452	9.37%
Interim Financing	1,263,900	1,263,900	5.45	5,096	7.40%
Reserves	276,000	276,000	1.19	1,113	1.62%
TOTAL COST	\$18,017,088	\$17,083,434	\$73.62	\$68,885	100.00%

Recap-Hard Construction Costs 68.83% \$50,006 \$53.45 \$12,401,594 \$11,467,940 \$49.42 \$46,242 67.13%

SOURCES OF FUNDS

	% OF EGI	PER UNIT	PER SQ FT
Newman Financial	67.71%	\$49,194	\$52.58
Additional Financing	0.00%	\$0	\$0.00
LIHTC Syndication Proceeds	24.54%	\$17,826	\$19.05
Deferred Developer Fees	2.57%	\$1,865	\$1.99
Additional (excess) Funds Required	5.18%	\$3,765	\$4.02
TOTAL SOURCES			

	TDHCA	APPLICANT	RECOMMENDED
Newman Financial	\$12,200,000	\$12,200,000	\$11,594,643
Additional Financing	0	0	0
LIHTC Syndication Proceeds	4,420,847	4,420,847	4,604,512
Deferred Developer Fees	462,587	462,587	1,817,933
Additional (excess) Funds Required	933,654	0	0
TOTAL SOURCES	\$18,017,088	\$17,083,434	\$18,017,088

MULTIFAMILY FINANCIAL ASSISTANCE REQUEST (continued)

Gates of Capernum Apartments, San Antonio, 4% LIHTC #02451

DIRECT CONSTRUCTION COST ESTIMATE

Residential Cost Handbook
Average Quality Multiple Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			\$41.99	\$9,744,161
Adjustments				
Exterior Wall Fini	1.35%		\$0.57	\$131,546
Elderly			0.00	0
Roofing			0.00	0
Subfloor			(0.81)	(187,488)
Floor Cover			1.92	445,517
Porches/Balconies	\$20.01	22,080	1.90	441,777
Plumbing	\$615	600	1.59	369,000
Built-In Appliances	\$1,625	248	1.74	403,000
Stairs	\$1,625	76	0.53	123,500
Breezeways	\$20.01	31,574	2.72	631,733
Heating/Cooling			1.47	341,099
Carports	\$7.83	30,000	1.01	234,900
Clubhouse	\$56.34	3,211	0.78	180,893
Maint./Laundry	\$44.95	820	0.16	36,859
SUBTOTAL			55.58	12,896,496
Current Cost Multiplier	1.02		1.11	257,930
Local Multiplier	0.84		(8.89)	(2,063,439)
TOTAL DIRECT CONSTRUCTION COSTS			\$47.80	\$11,090,986
Plans, specs, survy, b	3.90%		(\$1.86)	(\$432,548)
Interim Construction I	3.38%		(1.61)	(374,321)
Contractor's OH & Prof	11.50%		(5.50)	(1,275,463)
NET DIRECT CONSTRUCTION COSTS			\$38.82	\$9,008,654

PAYMENT COMPUTATION

Primary	\$12,200,000	Amort	420
Int Rate	6.95%	DCR	1.05
Secondary		Amort	
Int Rate		Subtotal DCR	1.02
Additional		Amort	
Int Rate		Aggregate DCR	1.02

RECOMMENDED FINANCING STRUCTURE:

Primary Debt Service	\$884,005
Compliance fees, spt svcs	24,723
Additional Debt Service	0
NET CASH FLOW	\$64,302

Primary	\$11,594,643	Amort	420
Int Rate	6.95%	DCR	1.10
Secondary		Amort	0
Int Rate		Subtotal DCR	1.07
Additional		Amort	0
Int Rate		Aggregate DCR	1.07

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE

INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	\$1,742,152	\$1,794,417	\$1,848,249	\$1,903,697	\$1,960,808	\$2,273,114	\$2,635,162	\$3,054,875	\$4,105,496
Secondary Income	44,640	45,979	47,359	48,779	50,243	58,245	67,522	78,277	105,197
Other Support Income:	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	1,786,792	1,840,396	1,895,608	1,952,476	2,011,050	2,331,359	2,702,684	3,133,151	4,210,693
Vacancy & Collection Lost:	(134,009)	(138,030)	(142,171)	(146,436)	(150,829)	(174,852)	(202,701)	(234,986)	(315,802)
Employee or Other Non-Rent	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	\$1,652,783	\$1,702,366	\$1,753,437	\$1,806,040	\$1,860,222	\$2,156,507	\$2,499,982	\$2,898,165	\$3,894,891
EXPENSES at 4.00%									
General & Administrative	\$73,444	\$76,382	\$79,437	\$82,615	\$85,919	\$104,534	\$127,182	\$154,736	\$229,047
Management	82,639	85,118	87,672	90,302	93,011	107,825	124,999	144,908	194,745
Payroll & Payroll Tax	199,144	207,110	215,394	224,010	232,970	283,444	344,853	419,566	621,061
Repairs & Maintenance	100,153	104,159	108,326	112,659	117,165	142,549	173,433	211,008	312,343
Utilities	37,371	38,866	40,420	42,037	43,718	53,190	64,714	78,734	116,546
Water, Sewer & Trash	90,194	93,802	97,554	101,456	105,514	128,374	156,187	190,025	281,283
Insurance	46,408	48,264	50,195	52,203	54,291	66,053	80,364	97,775	144,730
Property Tax	0	0	0	0	0	0	0	0	0
Reserve for Replacements	49,600	51,584	53,647	55,793	58,025	70,596	85,891	104,500	154,685
Other	800	832	865	900	936	1,139	1,385	1,685	2,495
TOTAL EXPENSES	\$679,753	\$706,117	\$733,511	\$761,974	\$791,550	\$957,705	\$1,159,008	\$1,402,938	\$2,056,936
NET OPERATING INCOME	\$973,030	\$996,249	\$1,019,927	\$1,044,066	\$1,068,671	\$1,198,802	\$1,340,975	\$1,495,227	\$1,837,955
DEBT SERVICE									
First Lien Financing	\$884,005	\$884,005	\$884,005	\$884,005	\$884,005	\$884,005	\$884,005	\$884,005	\$884,005
Second Lien	24,723	24,723	24,723	24,723	24,723	24,723	24,723	24,723	24,723
Other Financing	0	0	0	0	0	0	0	0	0
NET CASH FLOW	\$64,302	\$87,521	\$111,199	\$135,338	\$159,943	\$290,074	\$432,247	\$586,499	\$929,227
DEBT COVERAGE RATIO	1.07	1.10	1.12	1.15	1.18	1.32	1.48	1.65	2.02

LIHTC Allocation Calculation - Gates of Capernum Apartments, San Antonio

CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS
(1) Acquisition Cost				
Purchase of land	\$790,395	\$790,395		
Purchase of buildings				
(2) Rehabilitation/New Construction Cost				
On-site work	\$1,612,000	\$1,612,000	\$1,612,000	\$1,612,000
Off-site improvements				
(3) Construction Hard Costs				
New structures/rehabilitation ha	\$8,075,000	\$9,008,654	\$8,075,000	\$9,008,654
(4) Contractor Fees & General Requirements				
Contractor overhead	\$161,500	\$161,500	\$161,500	\$161,500
Contractor profit	\$581,220	\$581,220	\$581,220	\$581,220
General requirements	\$581,220	\$581,220	\$581,220	\$581,220
(5) Contingencies				
	\$457,000	\$457,000	\$457,000	\$457,000
(6) Eligible Indirect Fees				
	\$714,000	\$714,000	\$714,000	\$714,000
(7) Eligible Financing Fees				
	\$1,263,900	\$1,263,900	\$1,263,900	\$1,263,900
(8) All Ineligible Costs				
	\$621,199	\$621,199		
(9) Developer Fees				
Developer overhead	\$350,000	\$350,000	\$350,000	\$350,000
Developer fee	\$1,600,000	\$1,600,000	\$1,600,000	\$1,600,000
(10) Development Reserves				
	\$276,000	\$276,000		
TOTAL DEVELOPMENT COSTS	\$17,083,434	\$18,017,088	\$15,395,840	\$16,329,494

Deduct from Basis:				
All grant proceeds used to finance costs in eligible basis				
B.M.R. loans used to finance cost in eligible basis				
Non-qualified non-recourse financing				
Non-qualified portion of higher quality units [42(d)(3)]				
Historic Credits (on residential portion only)				
TOTAL ELIGIBLE BASIS			\$15,395,840	\$16,329,494
High Cost Area Adjustment			100%	100%
TOTAL ADJUSTED BASIS			\$15,395,840	\$16,329,494
Applicable Fraction			100%	100%
TOTAL QUALIFIED BASIS			\$15,395,840	\$16,329,494
Applicable Percentage			3.67%	3.67%
TOTAL AMOUNT OF TAX CREDITS			\$565,027	\$599,292
Syndication Proceeds				
		0.8149	\$4,604,512	\$4,883,745

Developer Evaluation

Compliance Status Summary

Project ID #: 02451

LIHTC 9% LIHTC 4%

Project Name: Gates of Capernum Apartments

HOME HTF

Project City:

BOND SECO

Housing Compliance Review

Project(s) in material non-compliance

No previous participation

Status of Findings (individual compliance status reports and National Previous Participation and Background Certification(s) available)

Projects Monitored by the Department

reviewed 0 # not yet monitored or pending review 2

of projects grouped by score 0-9: 0 10-19: 0 20-29: 0

Members of the development team have been disbarred by HUD

National Previous Participation Certification Received N/A

Non-Compliance Reported _____

Completed by Jo En Taylor **Completed on** 10/28/2002

Single Audit

Status of Findings (any outstanding single audit issues are listed below)

single audit not applicable no outstanding issues outstanding issues

Comments:

Completed by Lucy Trevino **Completed on** 10/28/2002

Program Monitoring

Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by Ralph Hendrickson **Completed on** 10/28/2002

Community Affairs Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by EEF **Completed on** _____

Housing Finance Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by _____ **Completed on** _____

Housing Programs Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by S. Roth **Completed on** 10/28/2002

Multifamily Finance Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by Robbye Meyer **Completed on** 10/28/2002

Executive Director: _____ **Date Signed:** _____



LOW INCOME HOUSING TAX CREDIT PROGRAM
2002 LIHTC/TAX EXEMPT BOND DEVELOPMENT PROFILE AND BOARD SUMMARY
 Texas Department of Housing and Community Affairs

Development Name: **Sanger Trails Apartments**

TDHCA#: 02455

DEVELOPMENT AND OWNER INFORMATION

Development Location: Sanger QCT: N DDA: N TTC: N
 Development Owner: CEI/Sanger, Ltd.
 General Partner(s): Colonial Equities, Inc., 100%, Contact: Richard Shaw
 Construction Category: New
 Set-Aside Category: Tax Exempt Bond Bond Issuer: Denton County HFC
 Development Type: Family

Annual Tax Credit Allocation Calculation

Applicant Request: \$445,956 Eligible Basis Amt: \$444,126 Equity/Gap Amt.: \$455,570
Annual Tax Credit Allocation Recommendation: \$444,126
 Total Tax Credit Allocation Over Ten Years: 4,441,260

PROPERTY INFORMATION

Unit and Building Information

Total Units: 208 LIHTC Units: 208 % of LIHTC Units: 100%
 Gross Square Footage: 197,489 Net Rentable Square Footage: 194,560
 Average Square Footage/Unit: 935
 Number of Buildings: 13
 Currently Occupied: N

Development Cost

Total Cost: \$13,516,581 Total Cost/Net Rentable Sq. Ft.: \$69.47

Income and Expenses

Effective Gross Income:¹ \$1,555,548 Ttl. Expenses: \$727,940 Net Operating Inc.: \$827,608
 Estimated 1st Year DCR: 1.14

DEVELOPMENT TEAM

Consultant: Not Utilized	Manager: Provident Management
Attorney: Richard C. Ruschman	Architect: Architectettura Architect, Inc.
Accountant: Novogradac & Company, LLP	Engineer: The Lissiak Company, Inc.
Market Analyst: The Jack Poe Co.	Lender: SunAmerica
Contractor: Brasha Builders, Inc.	Syndicator: SunAmerica Affordable Housing Partners, Inc.

PUBLIC COMMENT²

From Citizens:	From Legislators or Local Officials:
# in Support: 2	Sen. Craig Estes, District 30 - NC
# in Opposition: 0	Rep. Mary Denny, District 63 - S
	Mayor Tommy Kincaid - S
	Jack Smith, City Manager, City of Sanger; The City of Sanger does not have a local comprehensive plan at this time, however the city supports this development.

1. Gross Income less Vacancy
 2. NC - No comment received, O - Opposition, S - Support

CONDITION(S) TO COMMITMENT

1. Per §49.7(i)(6) of the Qualified Allocation Plan and Rules, all Tax Exempt Bond Project Applications “must provide an executed agreement with a qualified service provider for the provision of special supportive services that would otherwise not be available for the tenants. The provision of such services will be included in the Declaration of Land Use Restrictive Covenants (“LURA”).”
2. Receipt, review, and acceptance of documentation verifying the resolution of the issues presented in the submitted title commitment dated August 22, 2002.
3. Receipt, review, and acceptance of a final financing commitment reflecting the final bond amount and financing terms.
4. Should the final bond amount exceed \$9,967,129, review and a likely reduction in the amount of tax credits should occur.

DEVELOPMENT’S SELECTION BY PROGRAM MANAGER & DIVISION DIRECTOR IS BASED ON:

Score Utilization of Set-Aside Geographic Distrib. Tax Exempt Bond. Housing Type

Other Comments including discretionary factors (if applicable).

Charles E. Nwaneri, LIHTC Co-Manager

Date

David Burrell, Director of Housing Programs

Date

DEVELOPMENT’S SELECTION BY EXECUTIVE AWARD AND REVIEW ADVISORY COMMITTEE IS BASED ON:

Score Utilization of Set-Aside Geographic Distrib. Tax Exempt Bond Housing Type

Other Comments including discretionary factors (if applicable)._____

Edwina P. Carrington, Executive Director
Chairman of Executive Award and Review Advisory Committee

Date

TDHCA Board of Director’s Approval and description of discretionary factors (if applicable).

Chairperson Signature: _____
Michael E. Jones, Chairman of the Board

Date

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTI FAMILY CREDIT UNDERWRITING ANALYSIS**

DATE: November 1, 2002

PROGRAM: 4% LIHTC

FILE NUMBER: 02455

DEVELOPMENT NAME

Sanger Trails

APPLICANT

Name: CEI/Sanger, Ltd. **Type:** For Profit Non-Profit Municipal Other
Address: 16200 Dallas Parkway, Suite 190 **City:** Dallas **State:** TX
Zip: 75248 **Contact:** Richard Shaw **Phone:** (972) 733-0096 **Fax:** (972) 733-1864

PRINCIPALS of the APPLICANT

Name: <u>Colonial Equities, Inc.</u>	(%): <u>0.1</u>	Title: <u>Managing General Partner</u>
Name: <u>SunAmerica</u>	(%): <u>99.9</u>	Title: <u>Limited Partner</u>
Name: <u>Richard Shaw</u>	(%): <u>n/a</u>	Title: <u>49% General Partner</u>
Name: <u>Shaw Family Trust No.1</u>	(%): <u>n/a</u>	Title: <u>49% General Partner</u>
Name: <u>Scott & Bradley Shaw</u>	(%): <u>n/a</u>	Title: <u>2% General Partner</u>

GENERAL PARTNER

Name: Colonial Equities, Inc. **Type:** For Profit Non-Profit Municipal Other
Address: 16200 Dallas Parkway, Suite 190 **City:** Dallas **State:** TX
Zip: 75248 **Contact:** Richard Shaw **Phone:** (972) 733-0096 **Fax:** (972) 733-1864

PROPERTY LOCATION

Location: Marion Road, north of Stagecoach Trail (FM 455) QCT DDA
City: Sanger **County:** Denton **Zip:** 76266

REQUEST

<u>Amount</u>	<u>Interest Rate</u>	<u>Amortization</u>	<u>Term</u>
\$445,956	n/a	n/a	n/a
Other Requested Terms:	<u>Annual ten-year allocation of low-income housing tax credits</u>		
Proposed Use of Funds:	<u>New Construction</u>		

SITE DESCRIPTION

Size: 18 acres 784,080 square feet **Zoning/ Permitted Uses:** MF-2
Flood Zone Designation: Zone X **Status of Off-Sites:** Partially Improved

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS**

DESCRIPTION of IMPROVEMENTS

Total Units: 208 **# Rental Buildings:** 13 **# Common Area Bldgs:** 1 **# of Floors:** 2 **Age:** n/a yrs **Vacant:** n/a at / /

Number	Bedrooms	Bathroom	Size in SF
88	1	1	772
48	2	2	997
48	2	2	1,027
24	3	2	1,228

Net Rentable SF: 194,560 **Av Un SF:** 935 **Common Area SF:** 2,929 **Gross Bldg SF:** 197,489

Property Type: Multifamily SFR Rental Elderly Mixed Income Special Use

CONSTRUCTION SPECIFICATIONS

STRUCTURAL MATERIALS

Wood frame on a post-tensioned concrete slab on grade, 35% brick veneer/65% Hardiplank siding exterior wall covering, drywall interior wall surfaces, composite shingle roofing

APPLIANCES AND INTERIOR FEATURES

Carpeting & vinyl flooring, range & oven, hood & fan, garbage disposal, dishwasher, refrigerator, tile tub/shower, washer & dryer connections, ceiling fans, laminated counter tops

ON-SITE AMENITIES

Community room, management offices, fitness facilities, kitchen, restrooms, computer/business center, central mailroom, swimming pool, sports courts, community garden/walk trail, picnic area

Uncovered Parking: 375 spaces **Carpports:** 80 spaces **Garages:** n/a spaces

OTHER SOURCES of FUNDS

LONG TERM/PERMANENT FINANCING

Source: SunAmerica **Contact:** Niel Socquet

Principal Amount: Up to \$10,600,000 **Interest Rate:** Applicant estimates at 6.10%

Additional Information: 3-year interest free period; to be issued by Denton County Housing Finance Authority; Credit Enhancement required at Sun America's discretion; Richard Shaw will personally guarantee during construction

Amortization: 30 yrs **Term:** 30 yrs **Commitment:** None Firm Conditional

Annual Payment: \$705,334 est. **Lien Priority:** 1st **Commitment Date:** 08/ 28/ 2002

LIHTC SYNDICATION

Source: SunAmerica **Contact:** Michael L Fowler

Address: 1 SunAmerica Center, Century City **City:** Los Angeles

State: CA **Zip:** 90067 **Phone:** (310) 772-6000 **Fax:** (310) 772-6179

Net Proceeds: \$3,541,807 **Net Syndication Rate (per \$1.00 of 10-yr LIHTC):** 79.72¢

Commitment: None Firm Conditional **Date:** 08/ 28/ 2002

Additional Information: Proceeds based on \$444,737 in annual credits; Bridge loan of \$2,768,446 at Prime + 2% on any amount in excess of \$643,362

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS**

APPLICANT EQUITY

Amount: \$64,159 **Source:** Deferred Developer Fee

VALUATION INFORMATION

ASSESSED VALUE

Land: 230.259 acres	\$921,036	Assessment for the Year of:	2001
1 acres:	\$4,000	Valuation by:	Denton County Appraisal District
Prorated Value: 18 acres	\$72,000	Tax Rate:	2.510720

EVIDENCE of SITE or PROPERTY CONTROL

Type of Site Control: Contract to Purchase Real Estate (18 acres)

Contract Expiration Date: 01/ 31/ 2003 **Anticipated Closing Date:** 12/ 20/ 2002

Acquisition Cost: \$ 600,000 **Other Terms/Conditions:**

Seller: The Lakes of Sanger, Inc. **Related to Development Team Member:** No

REVIEW of PREVIOUS UNDERWRITING REPORTS

No previous reports.

PROPOSAL and DEVELOPMENT PLAN DESCRIPTION

Description: Sanger Trails is a proposed new construction development of 208 units of affordable housing located in Sanger, Denton County. The development is comprised of 13 residential buildings as follows:

- Four Building Type 1 with 16 one-bedroom units;
- Six Building Type 2 with 16 two-bedroom units; and
- Three Building Type 3 with eight one-bedroom units and eight three-bedroom units.

Based on the site plan the apartment buildings are located on 14 acres of the proposed 18 acres, with the community building and swimming pool located near the entrance to the site.

Supportive Services: The Applicant has contracted with Outreach Housing to provide the following supportive services to tenants: home buyer education, first time homebuyer down payment assistance and financial planning. These services will be provided at no cost to tenants. The contract requires the Applicant to provide facilities in the community building for provision of the services and to pay a total of \$2,100 per year for these support services. The Applicant included supportive service costs of \$3,600 annually in their expense budget.

Schedule: The Applicant anticipates construction to begin in January of 2003, to be completed in February of 2004, to be placed in service in July of 2003, and to be substantially leased-up in May of 2004.

POPULATIONS TARGETED

Income Set-Aside: The Applicant has elected the 40% at 60% or less of area median gross income (AMGI) set-aside. As a Priority 1 private activity bond lottery project, 100% of the units must have rents restricted to be affordable to households at or below 50% of AMGI, though all of the units may lease to residents earning up to 60% of the AMFI.

Special Needs Set-Asides: The application itself reflected that none of the units are specifically designated to be handicapped-accessible or equipped for tenants with hearing or visual impairments; however, the Applicant has signed the certification confirming that the development will meet minimum accessibility requirements under Section 504, Rehabilitation Act of 1973.

Compliance Period Extension: The intended length of the compliance period was not specified in the submitted application; however, all new LIHTC developments are required to have a minimum 30 year extended use compliance period.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS**

MARKET HIGHLIGHTS

A market feasibility study dated September 25, 2002 was prepared by The Jack Poe Company, Inc. and highlighted the following findings:

Definition of Primary Market: "...the subject's Primary Market is determined to be a fifteen mile radius from the center of Sanger." (p. 28) This definition of a market area encompasses nearly all of the City of Denton to the south and ends just south of the city limits of Gainesville to the north. The primary market area takes in Pilot Point to the east and Sidel and the Denton county border to the west. The Underwriter generally considers this size of a primary market area to be at or beyond the maximum reasonable size appropriate for a transaction that is not characterized as rural or elderly. A significant amount of latitude, however, is provided to the market analyst to determine the appropriate primary market area. In this case the market analyst used such a large market area in order to encompass the city of Denton which he feels is the primary area from which demand for the subject development will occur.

Total Local/Submarket Demand for Rental Units: "A WalMart distribution center was completed in August 2001, just north of Sanger. According to the Sanger Chamber of Commerce, the estimated employment at this facility is 1,200 personnel...we conclude that approximately 10% of the new employees would be income qualified and desire to reside in new multifamily housing in Sanger is it was built. Thus, the WalMart distribution center has created approximately 120 units of pent-up demand for affordable multifamily housing..." (p. 31)

ANNUAL INCOME-ELIGIBLE SUBMARKET DEMAND SUMMARY				
Type of Demand	Market Analyst		Underwriter	
	Units of Demand	% of Total Demand	Units of Demand	% of Total Demand
Household Growth	600	7%	309	7%
Resident Turnover	7,378	91%	3,986	89%
Other Sources: new employer	120	2%	120	3%
TOTAL ANNUAL DEMAND	8,098	100%	4,415	100%

Ref: p. 29-30

Capture Rate: "Thus, the recently completed but not stabilized, under construction, and proposed supply total 972 units. Dividing these units by 8,098 income qualified, renter household demand equates to a concentration capture rate of 12.0% in the Primary Market." (p. 33) The Underwriter calculated a concentration capture rate of 16% based upon a revised supply of unstabilized comparable affordable units of 722 divided by a revised demand of 4,415. The market analyst included households with incomes below the minimum annual income required to afford the lowest proposed rent of \$573 per month. Their estimate was based on households expending 40% of their income on rent, while the Underwriter has opted for a more conservative 35%. This difference was partially offset by the Underwriter's exclusion of 250 units targeted for elderly households that were included in the market analyst's calculation of unstabilized comparable units.

Market Rent Comparables: The market analyst surveyed seven comparable apartment projects totaling 1,125 units in the market area. (p. 57)

RENT ANALYSIS (net tenant-paid rents)					
Unit Type (% AMI)	Proposed	Program Max	Differential	Market	Differential
1-Bedroom	\$573	\$572	+\$1	\$710	-\$137
2-Bedroom (997 SF)	\$680	\$680	\$0	\$870	-\$190
2-Bedroom (1,027 SF)	\$680	\$680	\$0	\$900	-\$220
3-Bedroom	\$770	\$770	\$0	\$1,000	-\$230

(NOTE: Differentials are amount of difference between proposed rents and program limits and average market rents, e.g., proposed rent =\$500, program max =\$600, differential = -\$100)

Primary Market Occupancy Rates: 94% for the seven comparable units and 95% for the entire area (summary sheet)

Absorption Projections: "Based on the projected pre-leasing and move-ins allowed prior to completion of

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS**

all buildings, it is forecast to take 6 months to reach sustaining occupancy.” (p. 65)
The Underwriter found the market study provided sufficient information on which to base a funding recommendation.

SITE and NEIGHBORHOOD CHARACTERISTICS

Location: The site is located on the west side of Marion Road in the City of Sanger in the northern end of Denton County. The area is a rural community eight miles north of the City of Denton.

Population: The estimated 2001 population of the Primary Market was 127,793 and is expected to increase to approximately 154,981 by 2005. Within the primary market area there were estimated to be 47,649 households in 2001. The City of Sanger had 4,534 residents according to the 2000 census.

Adjacent Land Uses: The land surrounding the subject is primarily used for agricultural purposes. However, the land adjacent to the south and west is being developed with single family lots.

Site Access: Access to the property is from Marion Road, approximately 1,500 feet north of FM-455. FM-455 runs through the northern section of Sanger and intersects with IH-35, less than one mile west of the subject. IH-35 is a primary north/south interstate highway that leads through the Cities of Denton, Lewisville, Carrollton and Dallas to the south.

Public Transportation: The availability of public transportation is unknown.

Shopping & Services: The land on the south side of FM-455 at Marion Road is owned by the Sanger Independent School District and a new Sanger High School including sports facilities was recently completed. A grocery store is located within one-mile of the subject. The closest regional shopping center is located in Denton, approximately 12 miles south of the subject. Denton also provides the closest medical care and is home to the University of North Texas and Texas Women’s University.

Special Adverse Site Characteristics: The title commitment lists several deed of trust securing payment of a total of \$1,199,910.75 and a mechanic’s lien in the amount of \$139,698.39 that must be cleared by the closing. Receipt, review, and acceptance of documentation verifying the resolution of these issues is a condition of this report.

Site Inspection Findings: Though the site appears to be in the vicinity of a previous unsuccessful applicant in the 2000 application cycle which received an acceptable site inspection, the site for this application has not been inspected by a TDHCA staff member, and receipt, review, and acceptance of an acceptable site inspection report is a condition of this report.

HIGHLIGHTS of SOILS & HAZARDOUS MATERIALS REPORT(S)

A Phase I Environmental Site Assessment report dated March 6, 2002 was prepared by Lark & Associates and contained the following findings and recommendations:

“Our firm has concluded that this site has been found to have no current environmental concerns. Our firm does consider that no further environmental investigation is necessary at this time.”

OPERATING PROFORMA ANALYSIS

Income: The Applicant’s effective gross income estimate is \$33K, or 2%, higher than the Underwriter’s estimate due to their inclusion of a total of \$18.87 per unit per month in secondary income. The Applicant included a six month operating statement for a similar sized tax credit property they operate in Garland. The Garland operating statement reflected average secondary income of between \$38 and \$42 per unit per month however approximately half of that income is attributable to garage rent and washer and dryer rentals. The Underwriter included the maximum guideline of \$15 per unit per month, but did not include rental income from 80 carports as this is not considered a stable source of income and since no documentation was provided to support carport income as being achievable in this market. Furthermore, although the Applicant claimed income from 84 washer and dryer rentals, they may not be allowed to claim income for these above the maximum rent since the development does not offer a laundry facility and the remote location of the property does not suggest that there is a reasonable alternative for tenants nearby.

Expenses: The Applicant’s total operating expense estimate is \$3K, or less than 1%, higher than the Underwriter’s estimate. The Underwriter’s line-item estimates were derived using the TDHCA database, IREM, and information provided by the Applicant. Despite this, several of the Applicant’s line item estimates were inconsistent with the Underwriter’s estimates. In particular: general and administrative (\$23K lower); repairs and maintenance (\$38K higher); utilities (\$43K lower); property insurance (\$9K higher); and,

TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS

property taxes (\$37K higher).

Conclusion: The Applicant's net operating income estimate is within 5% of the Underwriter's estimate. Because the Applicant's income, operating expense and net operating income estimates are all within 5% of the Underwriter's estimates, the Applicant's proforma should be used to determine the development's debt service capacity. Both the Applicant's and the Underwriter's proformas result in debt coverage ratios that are within the Department's guidelines.

CONSTRUCTION COST ESTIMATE EVALUATION

Land Value: Though significantly higher than the prorated assessed value, the acquisition price is assumed to be reasonable since the acquisition is an arm's-length transaction.

Off-Site Costs: The Applicant claimed off-site costs of \$90K in their project cost schedule for a gas line, an offsite cost breakdown was submitted as well as a letter from the utility provider substantiating this amount.

Sitework Cost: The Applicant's claimed sitework costs of \$4,252 per unit are considered reasonable compared to historical sitework costs for multifamily projects.

Direct Construction Cost: The Applicant's direct construction cost estimate is \$509K, or 7%, less than the Underwriter's Marshall & Swift *Residential Cost Handbook*-derived estimate.

Ineligible Costs: The Applicant incorrectly included \$50K in marketing as an eligible cost; the Underwriter moved this cost to ineligible costs, resulting in an equivalent reduction in the Applicant's eligible basis.

Conclusion: Overall, the Applicant's total development cost estimate is within 5% of the Underwriter's estimate. Therefore, the Applicant's estimate, as adjusted by the Underwriter, will be used to determine the development's eligible basis and total funding need.

FINANCING STRUCTURE ANALYSIS

The Applicant intends to finance the development with two types of financing: a bond-financed interim to permanent loan and syndicated LIHTC equity.

Bonds: SunAmerica Affordable Housing Partner, Inc. has offered to purchase up to \$10,600,000 in tax-exempt mortgage revenue bonds to be issued by the Denton County Housing Finance Authority. The trust indenture will require no amortization or sinking fund payments for three years, and then amortize based on a 30-year term. An interest rate was not specified; therefore, the underwriting analysis assumes the Applicant indicated interest rate of 6.10%. The Applicant has indicated the current bond amount is projected to be \$9,884,774. Receipt, review, and acceptance of a final financing commitment reflecting the final bond amount and financing terms is a condition of this report.

LIHTC Syndication: SunAmerica Affordable Housing Partner, Inc. also has offered terms for syndication of the tax credits. The commitment letter shows net proceeds are anticipated to be \$3,541,807 based on a syndication factor of 80%. The funds would be disbursed in a three-phased pay-in schedule:

1. 2% upon admission to the partnership;
2. 78% upon substantial completion of the development and to be used to repay the bridge loan (described below); and
3. 20% upon commencement of amortization of the permanent loan, receipt of cost certification, and receipt of Forms 8609.

A bridge loan will provided in the amount of \$2,768,446. No interest shall accrue on the outstanding balance up to \$2,125,084, and then an interest rate of Prime plus two percent will accrue.

Deferred Developer's Fees: The Applicant's proposed deferred developer's fees of \$64,159 amount to 4% of the total fees.

Financing Conclusions: As stated above, the Applicant's total development cost estimate, as adjusted by the Underwriter, was used to determine an eligible basis of \$12,134,581 and recommended tax credits of \$444,126 annually. The recommended allocation is \$1,830 less than requested due to the Applicant's inclusion of \$50,000 in marketing costs in their eligible basis calculation. The resulting reduction in anticipated syndication proceeds indicates a need for total deferred developer fees of \$82,355, which appear to be repayable from stabilized cashflow within one year of operation. Should the final bond amount increase by more than the anticipated \$82,355 deferred developer fee without an increase in acceptable development costs, the amount of the tax credits will be reduced since the syndication proceeds would exceed the gap of financing needed to complete the development.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS**

REVIEW of ARCHITECTURAL DESIGN

The elevations for the residential buildings indicate simple combination brick and siding exteriors with little ornamentation. The individual units offer adequate storage space as well as wash/dryer connections. The community building will house many tenant-accessible areas. Its exterior is similar to the residential buildings. It should be noted that the site and architectural plans do not include a laundry facility and tenants will be required to either provide their own washers and dryers or rent a pair from the Applicant.

IDENTITIES of INTEREST

The Applicant, developer, general contractor, cost estimator, and property manager are related entities. These are common identities of interest for LIHTC/MRB-funded developments.

APPLICANT'S/PRINCIPALS' FINANCIAL HIGHLIGHTS, BACKGROUND, and EXPERIENCE

Financial Highlights:

- The Applicant is a single-purpose entity created for the purpose of receiving assistance from TDHCA and therefore has no material financial statements.
- The General Partner, Colonial Equities, submitted an unaudited financial statement as of August 28, 2002 reporting total assets of \$17M consisting of cash, receivables, real property, and investments. Liabilities totaled \$350K, resulting in a net worth of \$16.6M.
- Richard Shaw, a principal of the General Partner, submitted an unaudited financial statement as of August 28, 2002.

Background & Experience:

- The Applicant is a new entity formed for the purpose of developing the project.
- The General Partner has participated in four housing developments totaling 992 units since 1993.

SUMMARY OF SALIENT RISKS AND ISSUES

- None noted

RECOMMENDATION

- RECOMMEND APPROVAL OF AN LIHTC ALLOCATION NOT TO EXCEED \$444,126 ANNUALLY FOR TEN YEARS, SUBJECT TO CONDITIONS.

CONDITIONS

1. Receipt, review, and acceptance of documentation verifying the resolution of the issues presented in the submitted title commitment dated August 22, 2002.
2. Receipt, review, and acceptance of an acceptable site inspection report is a condition of this report.
3. Receipt, review, and acceptance of a final financing commitment reflecting the final bond amount and financing terms.
4. Should the final bond amount exceed \$9,967,129, review and a likely reduction in the amount of the tax credits should occur.

Credit Underwriting Supervisor: _____

Lisa Vecchietti

Date: November 1, 2002

Director of Credit Underwriting: _____

Tom Gouris

Date: November 1, 2002

MULTIFAMILY FINANCIAL ASSISTANCE REQUEST: Comparative Analysis

Sanger Trails Apartments, Sanger, 4% LIHTC #02455

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Net Rent per Unit	Rent per Month	Rent per SF	Tnt Pd. Utilities	Wtr, Swr, Trash
TC 50%	88	1	1	772	\$623	\$572	\$50,359	\$0.74	\$50.74	\$47.06
TC 50%	48	2	2	997	748	680	32,622	0.68	68.37	65.28
TC 50%	48	2	2	1,027	748	680	32,622	0.66	68.37	65.28
TC 50%	24	3	2	1,228	864	770	18,471	0.63	94.37	73.64
TOTAL:	208		AVERAGE:	935	\$709	\$645	\$134,074	\$0.69	\$63.91	\$58.54

INCOME Total Net Rentable Sq Ft: 194,560

POTENTIAL GROSS RENT			
Secondary Income	Per Unit Per Month:	\$15.00	
Other Income: carport (80) and washer/dryer (84) rents	Per Unit Per Month:	\$0.00	

POTENTIAL GROSS INCOME			
Vacancy & Collection Loss	% of Potential Gross Income:	-7.50%	
Employee or Other Non-Rental Units or Concessions			

EFFECTIVE GROSS INCOME

EXPENSES	% OF EGI	PER UNIT	PER SQ FT
General & Administrative	2.87%	\$210	\$0.22
Management	5.00%	366	0.39
Payroll & Payroll Tax	9.85%	721	0.77
Repairs & Maintenance	5.52%	404	0.43
Utilities	5.12%	375	0.40
Water, Sewer, & Trash	3.70%	271	0.29
Property Insurance	2.56%	187	0.20
Property Tax 2.51072	10.29%	753	0.81
Reserve for Replacements	2.73%	200	0.21
Other Expenses:	0.00%	0	0.00
TOTAL EXPENSES	47.63%	\$3,487	\$3.73
NET OPERATING INC	52.37%	\$3,834	\$4.10

DEBT SERVICE

First Lien Mortgage	47.20%	\$3,456	\$3.69
Compliance & Supportive Services:	0.48%	\$35	\$0.04
Additional Financing	0.00%	\$0	\$0.00
NET CASH FLOW	4.69%	\$343	\$0.37

AGGREGATE DEBT COVERAGE RATIO

BONDS ONLY DEBT COVERAGE RATIO

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT
Acquisition Cost (site or bldg)		4.28%	\$2,885	\$3.08
Off-Sites		0.64%	433	0.46
Sitework		6.31%	4,252	4.55
Direct Construction		55.02%	37,102	39.67
Contingency	4.07%	2.50%	1,683	1.80
General Req'ts	4.07%	2.50%	1,683	1.80
Contractor's G & I	1.74%	1.07%	721	0.77
Contractor's Prof:	3.49%	2.14%	1,442	1.54
Indirect Construction		3.04%	2,050	2.19
Ineligible Costs		2.83%	1,909	2.04
Developer's G & A	3.61%	2.85%	1,923	2.06
Developer's Profit	10.62%	8.38%	5,649	6.04
Interim Financing		6.35%	4,279	4.57
Reserves		2.10%	1,418	1.52
TOTAL COST		100.00%	\$67,429	\$72.09

Recap-Hard Construction Costs

SOURCES OF FUNDS

First Lien Mortgage	70.48%	\$47,523	\$50.81
Additional Financing	0.00%	\$0	\$0.00
LIHTC Syndication Proceeds	25.44%	\$17,152	\$18.34
Deferred Developer Fees	0.46%	\$308	\$0.33
Additional (excess) Funds Required	3.63%	\$2,445	\$2.61
TOTAL SOURCES			

	TDHCA	APPLICANT		
	\$1,608,894	\$1,609,632		
	37,440	32,448	\$13.00	Per Unit Per Month
	0	39,600	\$15.87	Per Unit Per Month
	\$1,646,334	\$1,681,680		
	(123,475)	(126,132)	-7.50%	of Potential Gross Rent
	0	0		
	\$1,522,859	\$1,555,548		
	\$43,667	\$21,000	\$0.11	\$101 1.35%
	76,143	72,300	0.37	348 4.65%
	149,968	140,000	0.72	673 9.00%
	83,987	122,000	0.63	587 7.84%
	77,992	35,000	0.18	168 2.25%
	56,365	54,000	0.28	260 3.47%
	38,912	48,000	0.25	231 3.09%
	156,669	194,040	1.00	933 12.47%
	41,600	41,600	0.21	200 2.67%
	0	0	0.00	0 0.00%
	\$725,302	\$727,940	\$3.74	\$3,500 46.80%
	\$797,556	\$827,608	\$4.25	\$3,979 53.20%
	\$718,815	\$705,334	\$3.63	\$3,391 45.34%
	7,300	8,600	\$0.04	\$41 0.55%
	0	0	\$0.00	\$0 0.00%
	\$71,442	\$113,674	\$0.58	\$547 7.31%
	1.10	1.16		
		1.15		

	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% of TOTAL
	\$600,000	\$600,000	\$3.08	\$2,885	4.44%
	90,000	90,000	0.46	433	0.67%
	884,384	884,384	4.55	4,252	6.54%
	7,717,282	7,208,697	37.05	34,657	53.33%
	350,000	350,000	1.80	1,683	2.59%
	350,000	350,000	1.80	1,683	2.59%
	150,000	150,000	0.77	721	1.11%
	300,000	300,000	1.54	1,442	2.22%
	426,500	426,500	2.19	2,050	3.16%
	397,000	397,000	2.04	1,909	2.94%
	400,000	400,000	2.06	1,923	2.96%
	1,175,000	1,175,000	6.04	5,649	8.69%
	890,000	890,000	4.57	4,279	6.58%
	295,000	295,000	1.52	1,418	2.18%
	\$14,025,166	\$13,516,581	\$69.47	\$64,984	100.00%
	\$9,751,666	\$9,243,081	\$47.51	\$44,438	68.38%
	\$9,884,774	\$9,884,774	\$9,884,774		
	0	0	0		
	3,567,648	3,567,648	3,549,452		
	64,159	64,159	82,355		
	508,585	0	0		
	\$14,025,166	\$13,516,581	\$13,516,581		

MULTIFAMILY FINANCIAL ASSISTANCE REQUEST (continued)
Sanger Trails Apartments, Sanger, 4% LIHTC #02455

DIRECT CONSTRUCTION COST ESTIMATE
 Residential Cost Handbook
 Average Quality Multiple Residence Basis

PAYMENT COMPUTATION

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			\$42.27	\$8,223,620
Adjustments				
Exterior Wall Finish	3.45%		\$1.46	\$283,715
Elderly			0.00	0
Roofing			0.00	0
Subfloor			(2.02)	(393,011)
Floor Cover			1.92	373,555
Porches/Balconies	\$29.24	16500	2.48	482,460
Plumbing	\$615	360	1.14	221,400
Built-In Appliances	\$1,625	208	1.74	338,000
Stairs/Fireplaces			0.00	0
Floor Insulation			0.00	0
Heating/Cooling			1.47	286,003
Garages/Carports	\$7.83	16,000	0.64	125,280
Comm &/or Aux Bldg	\$56.86	2,929	0.86	166,549
Other:			0.00	0
SUBTOTAL			51.95	10,107,571
Current Cost Multiplier	1.02		1.04	202,151
Local Multiplier	0.92		(4.16)	(808,606)
TOTAL DIRECT CONSTRUCTION COSTS			\$48.83	\$9,501,117
Plans, specs, survey, b	3.90%		(\$1.90)	(\$370,544)
Interim Construction I	3.38%		(1.65)	(320,663)
Contractor's OH & Prof	11.50%		(5.62)	(1,092,628)
NET DIRECT CONSTRUCTION COSTS			\$39.67	\$7,717,282

Primary	\$9,884,774	Amort	360
Int Rate	6.10%	DCR	1.11

Secondary	\$0	Amort	
Int Rate	0.00%	Subtotal DCR	1.10

Additional	\$3,567,648	Amort	
Int Rate		Aggregate DCR	1.10

RECOMMENDED FINANCING STRUCTURE APPLICANT'S NOI:

Primary Debt Service	\$718,815
Secondary Debt Service	7,300
Additional Debt Service	0
NET CASH FLOW	\$71,442

Primary	\$9,884,774	Amort	360
Int Rate	6.10%	DCR	1.15

Secondary	\$0	Amort	0
Int Rate	0.00%	Subtotal DCR	1.14

Additional	\$3,567,648	Amort	0
Int Rate	0.00%	Aggregate DCR	1.14

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE APPLICANT'S NOI

INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	\$1,609,632	\$1,657,921	\$1,707,659	\$1,758,888	\$1,811,655	\$2,100,205	\$2,434,713	\$2,822,499	\$3,793,203
Secondary Income	32,448	33,421	34,424	35,457	36,521	42,337	49,081	56,898	76,466
Other Income: carport (8	39,600	40,788	42,012	43,272	44,570	51,669	59,899	69,439	93,320
POTENTIAL GROSS INCOME	1,681,680	1,732,130	1,784,094	1,837,617	1,892,746	2,194,211	2,543,692	2,948,836	3,962,989
Vacancy & Collection Los	(126,132)	(129,910)	(133,807)	(137,821)	(141,956)	(164,566)	(190,777)	(221,163)	(297,224)
Employee or Other Non-Res	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	\$1,555,548	\$1,602,221	\$1,650,287	\$1,699,796	\$1,750,790	\$2,029,645	\$2,352,915	\$2,727,673	\$3,665,765
EXPENSES at 4.00%									
General & Administrative	\$21,000	\$21,840	\$22,714	\$23,622	\$24,567	\$29,890	\$36,365	\$44,244	\$65,492
Management	72,300	74,469	76,703	79,004	81,375	94,335	109,361	126,779	170,380
Payroll & Payroll Tax	140,000	145,600	151,424	157,481	163,780	199,264	242,435	294,959	436,611
Repairs & Maintenance	122,000	126,880	131,955	137,233	142,723	173,644	211,265	257,036	380,475
Utilities	35,000	36,400	37,856	39,370	40,945	49,816	60,609	73,740	109,153
Water, Sewer & Trash	54,000	56,160	58,406	60,743	63,172	76,859	93,511	113,770	168,407
Insurance	48,000	49,920	51,917	53,993	56,153	68,319	83,120	101,129	149,695
Property Tax	194,040	201,802	209,874	218,269	226,999	276,179	336,014	408,813	605,143
Reserve for Replacements	41,600	43,264	44,995	46,794	48,666	59,210	72,038	87,645	129,736
Other	0	0	0	0	0	0	0	0	0
TOTAL EXPENSES	\$727,940	\$756,335	\$785,844	\$816,510	\$848,381	\$1,027,516	\$1,244,717	\$1,508,114	\$2,215,093
NET OPERATING INCOME	\$827,608	\$845,886	\$864,444	\$883,286	\$902,409	\$1,002,130	\$1,108,198	\$1,219,560	\$1,450,672
DEBT SERVICE									
First Lien Financing	\$718,815	\$718,815	\$718,815	\$718,815	\$718,815	\$718,815	\$718,815	\$718,815	\$718,815
Second Lien	7,300	7,300	7,300	7,300	7,300	7,300	7,300	7,300	7,300
Other Financing	0	0	0	0	0	0	0	0	0
NET CASH FLOW	\$101,493	\$119,771	\$138,329	\$157,171	\$176,294	\$276,015	\$382,083	\$493,445	\$724,557
DEBT COVERAGE RATIO	1.14	1.16	1.19	1.22	1.24	1.38	1.53	1.68	2.00

Developer Evaluation

Compliance Status Summary

Project ID #: 02455 LIHTC 9% LIHTC 4%
Project Name: Sanger Trails Apartments HOME HTF
Project City: Sanger BOND SECO

Housing Compliance Review

Project(s) in material non-compliance

No previous participation

Status of Findings (individual compliance status reports and National Previous Participation and Background Certification(s) available)

Projects Monitored by the Department

reviewed 3 # not yet monitored or pending review 0

of projects grouped by score 0-9: 3 10-19: 0 20-29: 0

Members of the development team have been disbarred by HUD

National Previous Participation Certification Received No

Non-Compliance Reported _____

Completed by Jo En Taylor **Completed on** 10/28/2002

Single Audit

Status of Findings (any outstanding single audit issues are listed below)

single audit not applicable no outstanding issues outstanding issues

Comments:

Completed by Lucy Trevino **Completed on** 10/28/2002

Program Monitoring

Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by Ralph Hendrickson **Completed on** 10/28/2002

Community Affairs Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by EEF **Completed on** _____

Housing Finance Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by _____ **Completed on** _____

Housing Programs Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by Clifford Hudson **Completed on** 10/24/2002

Multifamily Finance Status of Findings (any unresolved issues are listed below)

monitoring review not applicable monitoring review pending

reviewed; no unresolved issues reviewed; unresolved issues found

Comments:

Completed by Robbye Meyer **Completed on** 10/28/2002

Executive Director: _____ **Date Signed:** _____

LOW INCOME HOUSING TAX CREDIT PROGRAM

BOARD ACTION REQUEST

November 14, 2002

Action Item

Requests for extensions of deadline to commence substantial construction and one request to close a construction loan.

Required Action

Approve requests for extensions associated with the 2001 commitments.

Background

Pertinent facts about the developments requesting extensions of the deadline to commence substantial construction are summarized below. Each request was accompanied by a mandatory \$2,500 extension request fee. Staff has reviewed the information and recommends granting the extension pursuant to Section 50.11(h) of the 2001 QAP.

LIHTC Development No. 01025, The Residences of Diamond Hill Apartments

Summary of Request: Applicant requested an extension from November 8 to December 24, 2002. Applicant stated that a backlog of requests at the City of Fort Worth caused an unusually long delay for approval of the plans. The statement was supported by a letter from the development engineer stating that final City approval had taken over six months from the date of submission of land development plans. A letter from a city planner and a copy of the new zoning ordinance were submitted on November 1 to document proper zoning. Building permits and photos of ongoing dirt work were also submitted.

Applicant:	Deen-Fort Worth Associates, L.P.
General Partner:	Community Enrichment Center, Inc.
Principals/Contacts:	Robert or Sandra Hoskins, Dilip Barot, John Weir, Robert Voelker (consultant)
City/County:	Fort Worth/Tarrant
Set-Aside:	General/Family
Type of Project:	New Construction
Units:	121 LIHTC and 82 market rate units
2001 Allocation:	\$993,399
Allocation per LIHTC Unit:	\$8,210
Extension Request Fee Paid:	\$2,500
Type of Extension Request:	Commencement of construction
Time of Request/Fee Receipt:	Deadline for request was October 25. Fax of request received October 24.

Current Deadline:	November 8, 2002
New Deadline Requested:	December 24, 2002
Prior Extensions on Project:	None
Staff Recommendation:	Grant extension as requested.

LIHTC Development No. 01069, Northstar Apartments

Summary of Request: The HUD construction loan was closed on October 31, 2002. Applicant now requests an extension of the November 8 deadline to commence construction. HUD required a deposit of \$1,522,015 by the investor as a condition of closing the construction loan. The investor supplied the deposit. Meridian Commercial (Anthony Hernandez) is the general contractor.

Applicant:	Raymondville Northstar Apartments, L.P.
General Partner:	Northstar Housing, LLC
Principals/Interested Parties:	Alfredo Huerta
City/County:	Raymondville/Willacy
Set-Aside:	Rural/Family
Type of Project:	New Construction
Units:	61 LIHTC and 11 market rate units
2001 Allocation:	\$437,266
Allocation Cost per LIHTC Unit:	\$7,168
Extension Request Fee Paid:	\$2,500
Type of Extension Request:	Commencement of construction
Time of Request/Fee Receipt:	Deadline for request was October 25. Fax of request received October 31.
Current Deadline:	November 8, 2002
New Deadline Requested:	June 30, 2003
Prior Extensions on Project:	Carryover extended from 10/12/01 to 11/12/01 Closing construction loan extended from 6/15/02 to 10/1/02 Closing construction loan extended from 10/1/02 to 10/31/02
Staff Recommendation:	Grant extension to February 28, 2003.

LIHTC Development No. 01073, The Greens on Turtle Creek Apartments

Summary of Request: Request was submitted on October 29. The deadline for requests was October 25. Applicant has already obtained final building permits. There were two unexpected reasons for the extension request: (1) a delay of approximately three months caused by the necessity for undertaking an environmental study to disprove the possibility of hazards from an abandoned pipeline that was discovered during the survey; and (2) bad weather including two hurricanes and 21 rain days and many partial rain days over the past two months. Despite the delays, the development may be able to comply with the requirement for commencement of substantial construction by the November 8 deadline, but the extension was requested as a precaution.

Applicant:	The Greens on Turtle Creek, Ltd.
General Partner:	Kilday Realty Corp.
Principals/Contacts:	Dianne, Dick and Les Kilday
City/County:	Port Arthur/Jefferson
Set-Aside:	General/Elderly
Type of Project:	New Construction
Units:	84 LIHTC units
2001 Allocation:	\$477,408
Allocation per LIHTC Unit:	\$5,683
Extension Request Fee Paid:	\$2,500

Type of Extension Request:	Commencement of construction
Time of Request/Fee Receipt:	Deadline for request was October 25. Fax of request received October 29.
Current Deadline:	November 8, 2002
New Deadline Requested:	January 7, 2002
Prior Extensions on Project:	None
Staff Recommendation:	Grant extension as requested.

LIHTC Development No. 01144, Autumn Oaks of Corinth Apartments

Summary of Request: Because of two extensions of the construction loan closing, the applicant must now request an extension for commencement of construction. The first request to extend the deadline to close the construction loan stated that the Corinth City Council had not finalized the master plan of the "Corinth Town Center" of which the proposed development was a part. The second request stated that late in the process of obtaining a construction loan, the applicant discovered that FNMA would not approve a permanent loan take-out for the construction loan because of the assisted living aspects of the development. After new research of the market, the developer submitted an application for a HUD 232 combination construction and permanent loan. The time to process and close the HUD loan made a long extension necessary. The developer expects to close the construction loan within the deadline, but requests an extension of the deadline to commence construction that is equivalent to the five month time period ordinarily given, in the absence of extensions, between closing the construction loan and commencement of construction. Applicant has stated that the contract with the general contractor is 98% complete. The City of Corinth sent a letter stating that building plans have been reviewed and approved for permit issuance.

Applicant:	Corinth Autumn Oaks, L.P.
General Partner:	LaSalle Equity Group, Inc. (90%), Holistic Life Care, Inc. (10%)
Principals/Contacts:	Melvin (Win) Warren, Jr.
City/County:	Corinth/Denton
Set-Aside:	General/Elderly
Type of Project:	New Construction
Units:	76 LIHTC and 52 market rate units
2001 Allocation:	\$330,428
Allocation per LIHTC Unit:	\$4,348
Extension Request Fee Paid:	\$2,500
Type of Extension Request:	Commencement of construction
Time of Request/Fee Receipt:	Deadline for request was October 25. E-mail of request received October 24.
Current Deadline:	November 8, 2002
New Deadline Requested:	April 8, 2003
Prior Extensions on Project:	Construction loan closing extended from 6/14/02 to 8/13/02 Construction loan closing extended from 8/13/02 to 12/11/02
Staff Recommendation:	Grant extension to March 11, 2003.

LIHTC Development No. 01152, Parkway Senior Apartments

Summary of Request: The construction loan closed on October 28 after three extensions as recounted later in this summary. Because construction could not begin until the construction loan closed, the applicant has now requested an extension until January 25, 2003 to meet the requirement for commencement of construction. The applicant has already obtained the necessary building permits. The first extension for closing the construction loan was made because increases in the utility allowances (which were later reduced) in Pasadena caused a delay because the increases reduced the amount of the construction loan that could be obtained. The second extension resulted from HUD's requirement that all equity be paid at the initial closing. Arranging the equity pay-in from the syndicator resulted in considerable delay. The third and last extension was made because HUD stopped processing other types of financing to meet a goal for "202 grants" before the end of HUD's fiscal year on September 30.

Applicant:	Parkway Senior Apartments, L.P.
General Partner:	Spirit Builders, Inc.
Principals/Contacts:	Lacy Gilbert, Mike Gilbert
City/County:	Pasadena / Harris
Set-Aside:	General/Elderly
Type of Project:	New Construction
Units:	91 LIHTC and 31 market rate units
2001 Allocation:	\$493,226
Allocation per LIHTC Unit:	\$5,420
Extension Request Fee Paid:	\$2,500
Type of Extension Request:	Commencement of construction
Time of Request/Fee Receipt:	Deadline for request was October 25. Request received October 25.
Current Deadline:	November 8, 2002
New Deadline Requested:	January 25, 2003
Prior Extensions on Project:	Carryover was extended from 10/13/01 to 11/12/01. On 6/13/02 Construction loan closing was extended from 6/14 to 9/12. On 8/29/02 Construction loan closing was extended from 9/12 to 10/12. On 10/10/02 Construction loan closing was extended from 9/12 to 10/28
Staff Recommendation:	Grant extension as requested.

LIHTC Development No. 01162, Town Park Townhomes

Summary of Request: During a survey of the site, a sewer line was found to be outside its easement by 10 inches. The line encroached on the subject land and lay under the proposed site of one of the building foundations. Negotiations with the City of Houston resulted in a plan to abandon the line and lay a new line. The presence of this problem prolonged the approval process for the building plans which had to be resubmitted several times with each submission taking about 25 days for processing. Building permits have been issued to the property.

Applicant:	Town Park, Ltd.
General Partner:	Tasek Management Co.
Contact:	Joseph Lopez (50%), Yan Min Kuo (50%)
City/County:	Houston/Harris
Set-Aside:	General/Elderly
Type of Project:	New Construction
Units:	120 LIHTC units
2001 Allocation:	\$931,890
Allocation per LIHTC Unit:	\$7,766
Extension Request Fee Paid:	\$2,500
Type of Extension Request:	Commencement of construction
Time of Request/Fee Receipt:	Deadline for request was October 25. Fax of request received October 4.
Current Deadline:	November 8, 2002
New Deadline Requested:	January 7, 2003
Prior Extensions on Project:	Carryover extended from October 11, 2001 to November 12, 2001
Staff Recommendation:	Grant extension as requested.

LIHTC Development No. 01027, Springdale Estates

Summary of Request: Applicant requested two extensions, a second extension to close the construction loan and an extension to commence construction. With regard to the construction loan, the applicant applied for a HUD 221(d)(4) loan after failing to find conventional financing. The applicant stated that two to three months before requesting the first extension of the deadline to close the construction loan, an application for a HUD insured loan was filed with the mortgagee. The first extension of the closing was from June 14, 2002, to November 26, 2002. After the mortgagee reviewed the development plans, the development architect took approximately four months to make changes as instructed by the mortgagee for submission to HUD. The mortgagee submitted the preliminary application to HUD in the first part of June (approximately three weeks before HUD invited the applicant to apply for a firm commitment). The applicant applied for a firm commitment on October 22, 2002. HUD confirmed with LIHTC staff that the time necessary to file for a firm commitment after an invitation is issued is normally three to four months and extensions of up to five and six months may be given. Therefore, the applicant has acted within a typical time frame. The applicant has been put on an accelerated program for approval by HUD, but HUD has indicated that closing within the month of November would be difficult. Because of the upcoming holidays, the applicant has requested January 31, 2003 as the extended deadline for closing. Because the late closing has delayed commencement of construction, the applicant has requested an extension for the commencement deadline, also. The applicant submitted a letter from a HUD supervisor dated October 23, 2002 stating that an application “for conformance to the submission standards under the Multifamily Accelerated Processing Guide” was under review and had met all filing requirements. The applicant also submitted documentation of site plan approval from the City of Austin. The general contractor, Meridian Commercial (Anthony Hernandez) is the general partner of the owner.

Applicant:	Springdale Estates Limited Partnership
General Partner:	Meridian Commercial Inc.
Principals/Contacts:	Bob Sherman, Anthony Hernandez
City/County:	Austin/Travis
Set-Aside:	General/Family
Type of Project:	New Construction
Units:	25 LIHTC and 18 market rate units
2001 Allocation:	\$236,453
Allocation per LIHTC Unit:	\$9,458
Extension Request Fee Paid:	\$5,000
1st Type of Extension Request:	Closing of construction loan
Time of Request/Fee Receipt:	Deadline for request will be November 12. Fax of request received October 31.
Current Deadline:	November 26, 2002
New Deadline Requested:	January 31, 2003
2nd Type of Extension Request:	Commencement of construction
Time of Request/Fee Receipt:	Deadline for request was October 25. Fax of request received October 31.
Current Deadline:	November 8, 2002
New Deadline Requested:	June 30, 2003
Prior Extensions on Project:	Closing of construction loan extended from 6/14/02 to 11/26/02
Staff Recommendation:	Grant extension to January 31, 2003 to close construction loan. Grant extension to April 1, 2003 to commence construction

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

MEMORANDUM

TO: TDHCA Board of Directors
Ruth Cedillo, Deputy Executive Director
Gary Longaker, Deputy Executive Director
David Burrell, Director of Housing Programs
Executive Award and Review Advisory Committee

FROM: Charles Nwaneri, Acting Co-Manager, Low Income Housing Tax Credit

THROUGH: Edwina Carrington, Executive Director,

DATE: November 4, 2002

SUBJECT: **Request for Increase in Tax Credit Allocation for a Tax-exempt bond Transaction**

Requested Action

TDHCA Board approval of development owner's request for increase in tax credit allocation for the tax-exempt bond transaction known as the Southwest Trails Apartments, (TDHCA#00028T) located in Austin. The developer of Southwest Trails has experienced excess costs beyond his original development budget. The owner of this development has submitted documentation which demonstrates that the increases in costs were beyond his control or were not preventable during construction. The documentation submitted was used to re-underwrite the application and to support the owner's request for additional tax credits.

Recommendation

It is recommended that the Board approve the increase in the tax credit allocation to the following development:

1. Southwest Trails Apartments, Austin. The owner is requesting \$435,720 in tax credits at the Cost Certification stage. The original Board approved tax credits were \$416,144. Subsequent to the original Board approval, the file was re-underwritten with a recommendation of tax credits of \$438,745. The re-underwriting and recommendation of \$438,745 in tax credits was not presented to the Board for approval but rather left until cost certification stage when the actual development costs are known.

The owner's original projected development cost at the application stage in June 2000 was \$13,011,016; and the TDHCA Underwriting development cost estimate at that time was \$12,225,165. In December of 2000, the owner made some submissions that satisfied the conditions of the June 2000 underwriting. Thus, the application was re-underwritten and the TDHCA underwriting development cost estimate was \$12,880,258 resulting to a recommendation of higher tax credit of \$438,745. At the cost certification stage, the actual development cost is \$12,758,495, a decrease of \$121,763 in underwriting development cost.

Although the total development costs decreased, the eligible basis costs have consistently increased from June 2000 till now. The eligible basis costs were \$11,097,183 in June 2000, \$11,793,634 in December 2000 and \$12,003,312 in November 2002. The eligible basis method was used to calculate the underwriting tax credit recommendation of \$435,720.

The increase in eligible basis costs resulted from higher than anticipated construction costs. In order to qualify for the City of Austin Greenbuilder and SMART Housing Programs, the owner was required to increase the efficiency of the units from 10 SEER to 12 SEER for additional costs to \$87,699. Other additional costs include providing separate water meters at a cost of \$55,905, City of Austin requirement to include two layers of gypsum board at the breezeways for three story buildings at a cost of \$175,611, City of Austin requirement for sod in the areas that proved to be thinner than suggested by the soil borings at a cost of \$27,266, the addition of covered pavilions to accommodate for the hottest portion of summer at a cost of \$45,156, City of Austin requirement for sidewalks based on site conditions at a cost of \$15,653. The total increase in eligible construction costs was \$407,290.

There was a reduction of \$125,246 in site costs due to value engineering and reduction of \$10,000 in allowance for signs and entry upgrade; for a total decrease of \$135,246. Thus, there was an overall increase of \$272,044 in eligible basis costs. **Based on the TDHCA's underwriting re-evaluation, an additional \$19,576 in tax credits is recommended for the Southwest Trails Apartments.**

Justification and Procedures

Section 50.7 (h) (7) of the 2001 Qualified Allocation Plan (QAP) states:

“The Determination Notice issued by the Department and any subsequent IRS Form(s) 8609 will reflect the amount of tax credits for which the Project is determined to be eligible in accordance with this paragraph, and the amount of tax credits reflected in the IRS Form 8609 may be greater or less than the amount set forth in the Determination Notice, based upon the Department's and the bond issuer's determination as of each building's placement in service”.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTI FAMILY CREDIT UNDERWRITING THIRD ADDENDUM**

DATE: November 6, 2002 **PROGRAM:** 4% LIHTC/HTF **FILE NUMBERS:** LIHTC #00028T
HTF # 98861

DEVELOPMENT NAME

Southwest Trails Apartments

APPLICANT

Name: Central Texas/SWA Mutual Housing Corporation **Type:** For Profit Non-Profit Municipal Other
Address: 3036 South First Street, Suite 200 **City:** Austin **State:** TX
Zip: 78704 **Contact:** Walter Moreau **Phone:** (512) 447-2026 **Fax:** (512) 447-0288

PRINCIPALS of the APPLICANT

Name: Central Texas Mutual Housing Association **(%):** 100% **Title:** Managing General Partner
Name: Walter Moreau **(%):** _____ **Title:** Executive Director of CTMHA
Name: Related Capital Corporation **(%):** _____ **Title:** Proposed Limited Partner
Name: Dan O'Dea **(%):** _____ **Title:** Financial Consultant

GENERAL PARTNER

Name: Central Texas Mutual Housing Association **Type:** For Profit Non-Profit Municipal Other
Address: 3036 South First Street, Suite 200 **City:** Austin **State:** TX
Zip: 78704 **Contact:** Walter Moreau **Phone:** (512) 447-2026 **Fax:** (512) 447-0288

PROPERTY LOCATION

Location: 6300-6450 Fletcher Lane QCT DDA

City: Austin **County:** Travis **Zip:** 78735

REQUEST

<u>Amount</u>	<u>Interest Rate</u>	<u>Amortization</u>	<u>Term</u>
❶ \$416,144	N/A	N/A	N/A
❷ \$19,576	N/A	N/A	N/A
❸ \$596,506	N/A	N/A	N/A
❹ \$240,000	N/A	N/A	N/A

Other Requested Terms: ❶ Original 4% LIHTC allocation
 ❷ Additional 4% LIHTC request
 ❸ Previously awarded HTF forgivable loan
 ❹ Previously awarded SECO fund grant

Proposed Use of Funds: New construction

ADDENDUM

The original underwriting report, dated May 2000, required several conditions be satisfied prior to the allocation of tax credits. Several of these conditions were addressed in previous addenda. A revised site plan and verification of the higher sitework cost led to the recommendation in the last addendum that the credit amount could be increased up to \$438,745 from the previously approved \$416,144 in June of 2000. However, the last addendum dated December 19, 2000 was not brought to the attention of the Board in the

TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS

form of an action item to increase the credit amount at that time. Staff felt that additional changes could have occurred between that time and cost certification. The Applicant has submitted their cost certification documentation and in fact is now requesting slightly fewer credits than recommended in the previous underwriting addendum but still more than originally requested.

As part of the previous submissions the Applicant provided a revised rent schedule for the project which increased the number of one-bedroom units from 12 to 16 and reduced the number of three-bedroom units from 52 to 48. This revision caused a slight decrease in the direct construction cost estimated by the Underwriter, and slightly reduced the potential gross rent and eventually the net operating income. Although this change initially appeared to lower the debt coverage ratio in the first year of stabilized occupancy to 1.07, current higher potential maximum rents have increased this ratio well over the minimum standard of 1.10.

A condition in the original underwriting report required receipt, review, and acceptance of verification of more than \$6,500 per unit of sitework costs via a third party engineer's detailed, itemized, and certified cost estimate. This condition was addressed in the second addendum dated December 2000 and recommended an additional \$22,601 in tax credits because the Applicant submitted project-specific evidence from the third party engineer and contractor that supported the Applicant's claimed higher sitework costs up to \$1,585,398 or \$9,909 per unit, excluding pool and sports facilities. With those added costs from the original cost breakdown, the Applicant's reconciled site work cost estimate was \$1,691,898, or \$10,574 per unit. Coincidentally, an unrelated project in Austin with similar topography concerns also provided substantiation for higher than normal sitework costs of over \$10K per unit for current and recently completed projects in Austin. With this additional information, the Underwriter increased the TDHCA sitework estimate to \$10,574 per unit. Ironically, the cost certification material now being presented reflects a sitework cost of only \$7,761 per unit, which is somewhat lower than that previously substantiated estimate yet still higher than the amount originally anticipated by the Underwriter and used to limit the eligible basis amount.

Based on the completion of the development, the Applicant is now seeking recognition for \$11,893,034 in eligible basis which is up only \$12K from the original request. The reason for the request for additional credits is due to the Applicant's higher than anticipated construction costs, which, even with the reduction in site work costs went up by \$194K. In fact, the Applicant has indicated in a letter to the Department that a total of \$264,530 in change orders was necessary during the construction of the development, including increased efficiency HVAC units, separate water meters and fire sprinkler system, a covered pavilion adjacent to the learning center, and additional sidewalks and exterior lighting. There were also some costs savings that were incorporated through value engineering.

The original award was based on the Underwriter's estimated development costs of \$12,225,165 and eligible basis of \$11,097,183. However, the Applicant's actual development costs are now \$12,758,495, or less than 1% lower than the Underwriter's revised current Marshall & Swift-based estimate of \$12,771,360, an acceptable deviation. It should be noted, however, that this difference is negligible because the Underwriter has included a 5% allowance for contingency in the revised estimate. This is consistent with the maximum contingency guideline allowed in an estimate. The Applicant's figures are no longer estimates and therefore they include no contingency allowance, but the Underwriter's figures are still an estimated amount and therefore a contingency would be allowed. Even without this contingency estimate the Underwriter's updated total cost estimate is within the overall 5% acceptable difference level.

Along with the \$194K increase in hard costs, the Applicant's contractor fees appear to have increase by \$169K. These two increases total to \$364K or less than \$1K more than the originally scheduled contingency amount. In addition, developer fees have increased by \$15K, however, eligible financing costs decreased by \$49K. Other miscellaneous eligible indirect construction costs increased by a net \$155K. This increase is driven mostly by an increase in personal property items such as computers for the learning center which do not appear to have been fully accounted for in the original budget. The original budget reflects \$267K in appliances and personal property which are reflected as \$273K in the cost certification. As a result of the Underwriter's ability to validate the cost changes and total costs of the development to a reasonable tolerance, the actual costs can be used to determine an adjusted eligible basis of \$12,003,312, resulting in new recommended total tax credit amount of \$435,720.

The Applicant indicated that they have permanent financing in the amount of \$6,500,000. The

TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS

Applicant's estimate of potential gross rent was \$150K or 11% lower than the Underwriter's, however, they are estimating over \$49K more in secondary income. The Applicant's expenses are 6% lower than the Underwriter's estimate and their net operating income (NOI) is 9% lower than the Underwriter's estimate. Despite the difference in NOI, the Underwriter believes the property will support the debt within the 1.10 to 1.25 debt coverage ratio Department guidelines. The cost certification information provided incorporated the HTF forgivable loan and SECO grant as gap that is to be paid from deferred developer fees, but in reality the \$1,067K gap will be reduced to a shortfall of just \$231K. It should be further noted that the parent non-profit of the general partner is also sponsoring a \$1,574K cash flow loan and has acquired the land with local city assistance and is leasing the land to the partnership for a nominal amount. Therefore the true net development fee deferral could be conceived to be more than the developer fee available. However, the entire amount, including the related party cash flow loan, appears to be potentially repayable within 15 years.

Based on the completion of the development, the Underwriter is recommending an increase in the credit amount of \$19,576 to a total of \$435,720 in annual credits as currently requested.

RECOMMENDATION

RECOMMEND APPROVAL SUBJECT TO THE FOLLOWING CONDITIONS:

- The tax credit allocation be increased up to \$435,720 per year.

Underwriter:

Mark Fugina

Date: November 6, 2002

Director of Credit Underwriting:

Tom Gouris

Date: November 6, 2002

MULTIFAMILY FINANCIAL ASSISTANCE REQUEST: Comparative Analysis

Southwest Trails, Austin, 4% LIHTC #0028T

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Net Rent per Unit	Rent per Month	Rent per SF	Tnt Pd Util	Trash
TC 50%	16	1	1	769	\$666	\$584	\$9,344	\$0.76	\$82.00	\$20.00
TC 50%	96	2	2	1,007	800	\$694	66,624	0.69	106.00	20.00
TC 50%	48	3	2	1,190	924	\$785	37,680	0.66	139.00	23.00
TOTAL:	160			1,038	\$824	\$710	\$113,648	\$0.68	\$113.50	\$20.90

INCOME				Total Net Rentable Sq Ft: 166,096		TDHCA		Applicant 2002				
POTENTIAL GROSS RENT												
Secondary Income		Per Unit Per Month:	\$10.00			\$1,363,776	\$1,214,208					
Other Support Income: (describe)						19,200	68,460	\$35.66		Per Unit Per Month		
						0						
POTENTIAL GROSS INCOME												
Vacancy & Collection Loss	% of Potential Gross Income:		-7.50%			\$1,382,976	\$1,282,668					
Employee or Other Non-Rental Units or Concessions						(103,723)	(96,204)	-7.50%		of Potential Gross Rent		
						0	0					
EFFECTIVE GROSS INCOME												
						\$1,279,253	\$1,186,464					
EXPENSES												
	% OF EGI	PER UNIT	PER SQ FT					PER SQ FT	PER UNIT	% OF EGI		
General & Administrative	3.71%	\$297	\$0.29			\$47,486	\$49,342	\$0.30	\$308	4.16%		
Management	5.00%	400	0.39			63,963	55,261	0.33	345	4.66%		
Payroll & Payroll Tax	11.90%	951	0.92			152,179	163,762	0.99	1,024	13.80%		
Repairs & Maintenance	5.34%	427	0.41			68,352	67,873	0.41	424	5.72%		
Utilities	3.20%	256	0.25			40,882	25,050	0.15	157	2.11%		
Water, Sewer, & Trash	4.29%	343	0.33			54,816	72,980	0.44	456	6.15%		
Property Insurance	2.60%	208	0.20			33,219	32,000	0.19	200	2.70%		
Property Tax 2.5721	12.45%	996	0.96			159,328	150,000	0.90	938	12.64%		
Reserve for Replacements	2.50%	200	0.19			32,000		0.00	0	0.00%		
Other Expenses:	0.06%	5	0.00			780	780	0.00	5	0.07%		
TOTAL EXPENSES	51.05%	\$4,081	\$3.93			\$653,006	\$617,048	\$3.72	\$3,857	52.01%		
NET OPERATING INC	48.95%	\$3,914	\$3.77			\$626,247	\$569,416	\$3.43	\$3,559	47.99%		
DEBT SERVICE												
Tax-exempt Bond Proceeds	39.45%	\$3,154	\$3.04			\$504,670	\$504,670	\$3.04	\$3,154	42.54%		
Additional Financing	0.00%	\$0	\$0.00			0	0	\$0.00	\$0	0.00%		
Additional Financing	0.00%	\$0	\$0.00			0	0	\$0.00	\$0	0.00%		
NET CASH FLOW	9.50%	\$760	\$0.73			\$121,577	\$0	\$0.00	\$0	0.00%		
AGGREGATE DEBT COVERAGE RATIO												
						1.24	64,746.00					
ALTERNATIVE DEBT COVERAGE RATIO												
						1.24	1.13					

CONSTRUCTION COST					TDHCA		Applicant 2002				
Description	Factor	% of TOTAL	PER UNIT	PER SQ FT			PER SQ FT	PER UNIT	% of TOTAL		
Acquisition Cost (site or bldg)		0.00%	\$0	\$0.00	\$0	\$0	\$0.00	\$0	0.00%		
Off-Sites		0.00%	0	0.00	0	0	0.00	0	0.00%		
Sitework		9.93%	7,761	7.48	1,241,774	1,241,774	7.48	7,761	9.73%		
Direct Construction		51.96%	40,628	39.14	6,500,508	7,197,916	43.34	44,987	56.42%		
Contingency	0.00%	3.09%	2,419	2.33	387,114	0	0.00	0	0.00%		
General Req'ts	6.00%	3.71%	2,903	2.80	464,537	491,936	2.96	3,075	3.86%		
Contractor's G & A	2.00%	1.24%	968	0.93	154,846	160,917	0.97	1,006	1.26%		
Contractor's Profi	6.00%	3.71%	2,903	2.80	464,537	489,696	2.95	3,061	3.84%		
Indirect Construction		3.34%	2,615	2.52	418,350	418,350	2.52	2,615	3.28%		
Ineligible Costs		6.04%	4,720	4.55	755,183	755,183	4.55	4,720	5.92%		
Developer's G & A	2.00%	1.61%	1,259	1.21	201,388	0	0.00	0	0.00%		
Developer's Profit	13.00%	10.46%	8,181	7.88	1,309,020	1,565,000	9.42	9,781	12.27%		
Interim Financing		3.50%	2,736	2.64	437,723	437,723	2.64	2,736	3.43%		
Reserves		1.41%	1,101	1.06	176,115	0	0.00	0	0.00%		
TOTAL COST		100.00%	\$78,194	\$75.32	\$12,511,094	\$12,758,495	\$76.81	\$79,741	100.00%		
Recap-Hard Construction Costs		73.64%	\$57,583	\$55.47	\$9,213,315	\$9,582,239	\$57.69	\$59,889	75.10%		
SOURCES OF FUNDS											
							RECOMMENDED				
Tax-exempt Bond Proceeds	70.55%	\$40,625	\$39.13		\$6,500,000	\$6,500,000	\$6,500,000				
Syndication Proceeds	39.25%	\$22,603	\$21.77		3,616,478	3,616,478	3,616,478				
CTMHA Deferred Cash Flow Loan	17.09%	\$9,840	\$9.48		1,574,411	1,574,411	1,574,411				
Housing Trust Fund					596,506		596,506				
SECO Grant					240,000		240,000				
Deferred Developer's Fee	11.59%	\$6,673	\$6.43		1,067,606	1,067,606	231,100				
Equity Shortfall (excess)	-11.76%	(\$6,774)	(\$6.53)		(1,083,907)	0	0				
TOTAL SOURCES					\$12,511,094	\$12,758,495	\$12,758,495				

MULTIFAMILY FINANCIAL ASSISTANCE REQUEST (continued)
Southwest Trails, Austin, 4% LIHTC #00028T

DIRECT CONSTRUCTION COST ESTIMATE
 Residential Cost Handbook
 Average Quality Multiple Residence Basis

PAYMENT COMPUTATION

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			\$41.86	\$6,952,507
Adjustments				
Exterior Wall Finish	2.05%		\$0.86	\$142,526
Elderly			0.00	0
Roofing			0.00	0
Subfloor			(0.92)	(152,506)
Floor Cover			1.92	318,904
Porches/Balconies	\$26.48	20,159	3.21	533,735
Plumbing	\$615	432	1.60	265,680
Built-In Appliances	\$1,625	160	1.57	260,000
Stairs	\$1,575	44	0.42	69,300
Floor Insulation			0.00	0
Heating/Cooling			1.47	244,161
Garages/Carports		0	0.00	0
Comm &/or Aux Bldg	\$56.08	6,382	2.15	357,925
Other:			0.00	0
SUBTOTAL			54.14	8,992,233
Current Cost Multiplier	1.02		1.08	179,845
Local Multiplier	0.87		(7.04)	(1,168,990)
TOTAL DIRECT CONSTRUCTION COSTS			\$48.18	\$8,003,087
Plans, specs, survy, b	3.90%		(\$1.88)	(\$312,120)
Interim Construction I	3.38%		(1.63)	(270,104)
Contractor's OH & Prof	11.50%		(5.54)	(920,355)
NET DIRECT CONSTRUCTION COSTS			\$39.14	\$6,500,508

Primary	\$6,500,000	Amort	480
Int Rate	7.35%	DCR	1.24

Secondary	\$3,616,478	Amort	
Int Rate	0.00%	Subtotal DCR	1.24

Additional	\$1,574,411	Amort	
Int Rate		Aggregate DCR	1.24

RECOMMENDED FINANCING STRUCTURE:

Primary Debt Service	\$504,670
Secondary Debt Service	0
Additional Debt Service	0
NET CASH FLOW	\$121,577

Primary	\$6,500,000	Amort	480
Int Rate	7.35%	DCR	1.24

Secondary	\$3,616,478	Amort	0
Int Rate	0.00%	Subtotal DCR	1.24

Additional	\$1,574,411	Amort	0
Int Rate	0.00%	Aggregate DCR	1.24

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE

	at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT		\$1,363,776	\$1,404,689	\$1,446,830	\$1,490,235	\$1,534,942	\$1,779,418	\$2,062,834	\$2,391,389	\$3,213,827
Secondary Income		19,200	19,776	20,369	20,980	21,610	25,052	29,042	33,667	45,246
Other Support Income: (de		0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME		1,382,976	1,424,465	1,467,199	1,511,215	1,556,552	1,804,470	2,091,875	2,425,057	3,259,074
Vacancy & Collection Los		(103,723)	(106,835)	(110,040)	(113,341)	(116,741)	(135,335)	(156,891)	(181,879)	(244,431)
Employee or Other Non-Ren		0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME		\$1,279,253	\$1,317,630	\$1,357,159	\$1,397,874	\$1,439,810	\$1,669,135	\$1,934,985	\$2,243,178	\$3,014,643
EXPENSES at 4.00%										
General & Administrative		\$47,486	\$49,385	\$51,361	\$53,415	\$55,552	\$67,587	\$82,230	\$100,046	\$148,092
Management		63,963	65,882	67,858	69,894	71,991	83,457	96,749	112,159	150,732
Payroll & Payroll Tax		152,179	158,267	164,597	171,181	178,028	216,599	263,526	320,619	474,595
Repairs & Maintenance		68,352	71,087	73,930	76,887	79,963	97,287	118,364	144,008	213,168
Utilities		40,882	42,517	44,218	45,986	47,826	58,187	70,794	86,131	127,495
Water, Sewer & Trash		54,816	57,009	59,289	61,661	64,127	78,020	94,924	115,489	170,952
Insurance		33,219	34,548	35,930	37,367	38,862	47,281	57,525	69,988	103,599
Property Tax		159,328	165,702	172,330	179,223	186,392	226,774	275,905	335,681	496,890
Reserve for Replacements		32,000	33,280	34,611	35,996	37,435	45,546	55,414	67,419	99,797
Other		780	811	844	877	912	1,110	1,351	1,643	2,433
TOTAL EXPENSES		\$653,006	\$678,486	\$704,967	\$732,487	\$761,088	\$921,849	\$1,116,781	\$1,353,184	\$1,987,752
NET OPERATING INCOME		\$626,247	\$639,144	\$652,192	\$665,387	\$678,723	\$747,286	\$818,203	\$889,994	\$1,026,891
DEBT SERVICE										
First Lien Financing		\$504,670	\$504,670	\$504,670	\$504,670	\$504,670	\$504,670	\$504,670	\$504,670	\$504,670
Second Lien		0	0	0	0	0	0	0	0	0
Other Financing		0	0	0	0	0	0	0	0	0
NET CASH FLOW		\$121,577	\$134,474	\$147,522	\$160,717	\$174,053	\$242,616	\$313,533	\$385,324	\$522,221
DEBT COVERAGE RATIO		1.24	1.27	1.29	1.32	1.34	1.48	1.62	1.76	2.03

LIHTC Allocation Calculation - Southwest Trails, Austin, 4% LIHTC #00028

CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS
(1) Acquisition Cost				
Purchase of land				
Purchase of buildings				
(2) Rehabilitation/New Construction Cost				
On-site work	\$1,241,774	\$1,241,774	\$1,241,774	\$1,241,774
Off-site improvements				
(3) Construction Hard Costs				
New structures/rehabilitation ha	\$7,197,916	\$6,500,508	\$7,197,916	\$6,500,508
(4) Contractor Fees & General Requirements				
Contractor overhead	\$160,917	\$154,846	\$160,917	\$154,846
Contractor profit	\$489,696	\$464,537	\$489,696	\$464,537
General requirements	\$491,936	\$464,537	\$491,936	\$464,537
(5) Contingencies				
		\$387,114		
(6) Eligible Indirect Fees				
	\$418,350	\$418,350	\$418,350	\$418,350
(7) Eligible Financing Fees				
	\$437,723	\$437,723	\$437,723	\$437,723
(8) All Ineligible Costs				
	\$755,183	\$755,183		
(9) Developer Fees				
				\$1,452,341
Developer overhead		\$201,388		
Developer fee	\$1,565,000	\$1,309,020	\$1,565,000	
(10) Development Reserves				
		\$176,115		
TOTAL DEVELOPMENT COSTS	\$12,758,495	\$12,511,094	\$12,003,312	\$11,134,615

Deduct from Basis:				
All grant proceeds used to finance costs in eligible basis				
B.M.R. loans used to finance cost in eligible basis				
Non-qualified non-recourse financing				
Non-qualified portion of higher quality units [42(d)(3)]				
Historic Credits (on residential portion only)				
TOTAL ELIGIBLE BASIS			\$12,003,312	\$11,134,615
High Cost Area Adjustment			100%	100%
TOTAL ADJUSTED BASIS			\$12,003,312	\$11,134,615
Applicable Fraction			100%	100%
TOTAL QUALIFIED BASIS			\$12,003,312	\$11,134,615
Applicable Percentage			3.63%	3.63%
TOTAL AMOUNT OF TAX CREDITS			\$435,720	\$404,187
Syndication Proceeds		0.8300	\$3,616,478	\$3,354,748

REPORT ITEMS

Executive Directors Report
Manufactured Homes in Colonias

Edwina Carrington

EXECUTIVE SESSION

Michael Jones

Litigation and Anticipated Litigation (Potential or Threatened under Sec. 551.071 and 551.103, Texas Government Code Litigation Exception) – (1) *Century Pacific Equity Corporation v. Texas Department of Housing and Community Affairs et al.* Cause No. GN-202219, in the District Court of Travis County, Texas, 53rd Judicial District
Consultation with Attorney Pursuant to Sec. 551.071(2), Texas Government Code - (1) 501c(3) Multifamily Housing Mortgage Revenue Bonds (Williams Run Apartments) Series 2000A;
(2) Lakeside Village Apartments, 2000 Low Income Housing Tax Credit Extension

The Board may discuss any item listed on this agenda in Executive Session

OPEN SESSION

Michael Jones

Action in Open Session on Items Discussed in Executive Session

ADJOURN

Michael Jones
Chair of Board

To access this agenda and details on each agenda item in the board book, please visit our website at www.tdhca.state.tx.us or contact the Board Secretary, Delores Groneck, TDHCA, 507 Sabine, Austin, Texas 78701, 512-475-3934 and request the information.

Individuals who require auxiliary aids, services or translators for this meeting should contact Gina Esteves, ADA Responsible Employee, at 512-475-3943 or Relay Texas at 1-800-735-2989 at least two days before the meeting so that appropriate arrangements can be made.

JOINT COMMITTEE MEETING
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
OFFICE OF RURAL COMMUNITY AFFAIRS
Capitol Extension, Room E1.018, 1400 Congress, Austin, Texas 78701
November 14, 2002 9:30 a.m.

A G E N D A

**CALL TO ORDER, ROLL CALL
CERTIFICATION OF QUORUM**

Michael Jones
Chair of Board

PUBLIC COMMENT

The Board will solicit Public Comment at the beginning of the meeting and will also provide for Public Comment on each agenda item after the presentation made by department staff and motions made by the Board.

The Board of the Texas Department of Housing and Community Affairs will meet to consider the following:

- Item 1 Presentation and Discussion of Possible Interagency Contract Between
The Office of Rural Community Affairs and the Texas Department of
Housing and Community Affairs Concerning the Joint Administration
of the Low Income Housing Tax Credit Set-Aside for Rural Areas
Pursuant to Texas Government Code Section 2306.6723 and TDHCA's
Administration of the Low Income Housing Tax Credit Program
Under Texas Government Code Chapter 2306, Subchapter DD;
Executive Order AWR 92-3 (March 4, 1992); and 26 U.S.C. Section 42

Michael Jones

ADJOURN

Michael Jones
Chair of Board

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**INTERAGENCY CONTRACT BY AND BETWEEN
THE OFFICE OF RURAL COMMUNITY AFFAIRS AND
THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

SECTION 1. PARTIES TO THE CONTRACT

This contract and agreement is made and entered into by and between the **Office of Rural Community Affairs**, an agency of the State of Texas, hereinafter referred to as “ORCA,” and the **Texas Department of Housing and Community Affairs**, an agency of the State of Texas, hereinafter referred to as “TDHCA,” pursuant to the authority granted and in compliance with the provisions of the Interagency Cooperation Act, Chapter 771, Texas Government Code, and Section 2306.6723, Texas Government Code.

SECTION 2. PERIOD OF PERFORMANCE

This contract shall commence on September 1, 2002 and shall terminate on August 31, 2003, unless otherwise specifically provided by the terms of this contract.

SECTION 3. CONTRACT PERFORMANCE

- A. Joint Performance. TDHCA and ORCA shall during the period of performance specified in Section 2 of this contract jointly administer any set-aside for rural areas established by TDHCA under the Low-Income Housing Tax Credit (LIHTC) program to ensure the maximum use and optimum geographic distribution of housing tax credits in rural areas and to provide for information sharing, efficient procedures, and the fulfillment of development compliance requirements in rural areas. TDHCA and ORCA shall jointly adjust the regional allocation of federal low-income housing tax credits to offset the under-utilization and over-utilization of multifamily private activity bonds and other housing resources in the different regions of the state of Texas. In addition, TDHCA and ORCA shall jointly implement an outreach and training program to promote rural area capacity building and the maximum use and dispersal of tax credits in rural areas. If the staff of TDHCA and ORCA disagree on the tax credit allocations to be recommended, and the disagreement cannot be resolved by further staff discussion, each staff may make separate allocation recommendations.
- B. TDHCA Performance. TDHCA shall train ORCA staff, as needed, on site inspection requirements and LIHTC application threshold and scoring review.
- C. ORCA Performance ORCA shall perform the following activities:
 - 1. ORCA shall assist TDHCA in developing all threshold, scoring, and underwriting criteria applied to applications eligible for the LIHTC rural set-aside. Such criteria must be approved by ORCA.

2. ORCA shall participate in the site inspections of all projects proposed under the rural set-aside. ORCA staff assigned to perform such inspections shall have completed sufficient training to enable them to perform the inspections.
3. ORCA shall assign a representative to attend LIHTC public hearings relating to the Qualified Allocation Plan and other application requirements and to participate in TDHCA's executive award and review advisory committee meetings in which recommendations relating to the allocation of tax credits to rural set-aside applicants is discussed.
5. ORCA shall assist TDHCA in developing and negotiating the Memorandum of Understanding between TDHCA and the U.S. Department of Agriculture relating to the administration of the Rural Development sub set-aside within the LIHTC rural set-aside.

SECTION 5. TDHCA FUNDING OBLIGATIONS

From the total amount of LIHTC application fees collected by TDHCA during the most recent allocation cycle from applicants for the rural set-aside, ORCA shall be reimbursed for any costs incurred in carrying out the requirements of this contract in an amount not to exceed 50% of the fees received from such applicants. TDHCA's maximum amount of liability under this contract shall not exceed such amount. ORCA shall submit a statement to TDHCA on a monthly basis that provides a detailed description of the work performed and hours spent on such work, including the names of the employees performing the work.

SECTION 6. AMENDMENTS AND CHANGES

Any alteration, addition or deletion to the terms of this contract shall be by amendment hereto in writing and executed by both parties hereto except as may be expressly provided for in some other manner by the terms of this contract.

SECTION 7. POLITICAL ACTIVITY

None of the activities or performances rendered hereunder by TDHCA or ORCA shall involve any political activity, including but not limited to any activity to further the election or defeat of any candidate for public office, or any activity undertaken to influence the passage, defeat, or final contents of legislation.

SECTION 8. SECTARIAN ACTIVITY

None of the activities or performances rendered hereunder by TDHCA or ORCA shall support any sectarian or religious activity.

SECTION 9. ORAL AND WRITTEN AGREEMENTS

All oral or written agreements between the parties hereto relating to the subject matter of this contract that were made prior to the execution of this contract have been reduced to writing and are contained herein.

SECTION 10. TERMINATION

- A. This contract may be terminated prior to the date specified in Section 2 of this contract only upon 14 days written notice from one party to the other.
- B. Upon written receipt of termination, TDHCA shall cease to incur costs hereunder and shall be reimbursed for any costs incurred up to the date of termination.

WITNESS OUR HANDS EFFECTIVE _____

Signed:

Robt. J. "Sam" Tessen, MS
Executive Director, Office of Rural Community Affairs

Approved and accepted on behalf of the TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, an agency of the STATE OF TEXAS.

Signed:

Edwina P. Carrington
Executive Director, Texas Department of Housing and
Community Affairs